

III. Responses to Comments



III. Responses to Comments

A. Introduction

Sections 21091(d) and 21092.5 of the Public Resources Code (PRC) and CEQA Guidelines Section 15088 govern the lead agency’s responses to comments on a Draft EIR. CEQA Guidelines Section 15088(a) states that “[T]he lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The lead agency shall respond to comments that were received during the notice comment period and any extensions and may respond to late comments.” In accordance with these requirements, this section of the Final EIR provides the responses prepared by the City of Long Beach Development Services—Planning Bureau (City) to each of the written comments received regarding the Draft EIR.

Section III.B, Matrix of Comments Received on the Draft EIR, includes a table that summarizes the environmental issues raised by each commenter regarding the Draft EIR. Section III.C, Responses to Comments, provides the City’s responses to each of the written comments raised in the comment letters received on the Draft EIR. Copies of the original comment letters are provided in Appendix FEIR-1 of this Final EIR.

Table III-1 (Continued)
Matrix of Comments Received on the Draft EIR

Letter No.	Commenter	Executive Summary	Project Description	Environmental Setting	Aesthetics	Air Quality	Biological Resources	Cultural Resources	Energy	Geology and Soils	Greenhouse Gas Emissions	Hazards and Hazardous Materials	Hydrology and Water Quality—Hydrology	Hydrology and Water Quality—Water Quality	Land Use	Noise	Population and Housing	Public Services—Fire Protection	Public Services—Police Protection	Public Services—Schools	Public Services—Parks and Recreation	Public Services—Libraries	Transportation	Tribal Cultural Resources	Utilities and Service Systems—Water Supply and Infrastructure	Utilities and Service Systems—Wastewater	Utilities and Service Systems—Solid Waste	Utilities and Service Systems—Energy Infrastructure	Cumulative Impact	Alternatives	General/Other	CEQA	Mitigation Measures	Support			
4	Adriana Raza Customer Service Specialist Facilities Planning Department Sanitation Districts of Los Angeles County 1955 Workman Mill Rd. Whittier, CA 90601-1415																								X												
ORGANIZATIONS																																					
5	William Perez Compton Headquarters Southern California Gas Company 701 N. Bullis Rd. Compton, CA 90221-2253																											X									
6	Louise Ivers, Ph.D. Vice President for Advocacy Long Beach Heritage P.O. Box 92521 Long Beach, CA 90809-2521							X																												X	
7	UNITE HERE Local 11 c/o Gideon Kracov Attorney at Law 801 S. Grand Ave., Fl. 11 Los Angeles, CA 90017-4613 Matt Hagemann SWAPE 2656 29th St., Ste. 201 Santa Monica, CA 90405-2984 Paul E. Rosenfeld SWAPE 2656 29th St., Ste. 201 Santa Monica, CA 90405-2984																																				

III. Responses to Comments

C. Comment Letters

Comment Letter No. 1

Scott Morgan
Director, State Clearinghouse
Office of Planning & Research
1400 Tenth St.
Sacramento, CA 95814-5502

Comment No. 1-1

The State Clearinghouse submitted the above named EIR to selected state agencies for review. The review period closed on 10/7/2019, and the comments from the responding agency (ies) is (are) available on the CEQA database for your retrieval and use. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

“A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation.”

Response to Comment No. 1-1

This comment introduces the letter and states that comments from responding state agencies are available on the CEQA database. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 1-2

Check the CEQA database for submitted comments for use in preparing your final environmental document: <https://ceqanet.opr.ca.gov/2018121006/2>. Should you need

more information or clarification of the comments, **we recommend that you contact the commenting agency directly.**

Response to Comment No. 1-2

This comment provides a link to the agency comment letters referenced in Comment No. 1-1. The Caltrans letter provided on the link was already received by the City of Long Beach and is included as Comment Letter No. 2 below. Though not included on the CEQA database, the City also received a comment letter from the California Coastal Commission, which is included as Comment Letter No. 3 below. Refer to Response to Comment Nos. 2-1 through 2-7 and 3-1 through 3-23 for a discussion of issues raised by these state agencies.

Comment No. 1-3

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Response to Comment No. 1-3

This comment concludes the letter and acknowledges that the City complied with the State Clearinghouse review requirements for draft environmental documents under CEQA. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment Letter No. 2

Miya Edmonson
IGR/CEQA Branch Chief
District 7—Office of Regional Planning
Department of Transportation
100 S. Main St., MS 16
Los Angeles, CA 90012

Comment No. 2-1

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project's Draft Environmental Impact Report (DEIR). The project involves a 30-story, 537,075-sf building that would include 429 hotel rooms, 23,512 sf of restaurant space, and 26,847 sf of meeting and ballroom space. The proposed building would replace an existing surface parking lot on the project site. Pedestrian walkways and new landscaping would be provided. The project also includes improvements to the portion of Victory Park located within the project site boundaries, including new landscaping [sic]

After reviewing the DEIR, Caltrans does not expect project approval to result in a direct adverse impact to the existing State transportation facilities.

Response to Comment No. 2-1

This comment introduces the letter, correctly summarizes the Project Description, and states that Caltrans does not expect the Project to result in a direct, adverse impact to existing Caltrans facilities. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 2-2

Further information included for your consideration:

Greenhouse gas reduction by way of reduced vehicle miles traveled (VMT) is critical. The essential component of walkable communities is mixed-use zoning. Residential and appropriate commercial uses should be intertwined to increase accessibility and allow residents to utilize active transportation modes.

Response to Comment No. 2-2

This comment stresses the urgency of reducing greenhouse gas emissions through reduced VMT and suggests a mix of residential and commercial uses to achieve this end. While the Project does not propose residential uses, as discussed in Section IV.C, Greenhouse Gas Emissions, of the Draft EIR, it does represent an infill development within an urbanized area that would introduce new uses on the Project Site, including new hotel and restaurant uses within an HQT. The increase in land use diversity and the complementary mix of uses on the Project Site would reduce vehicle trips and VMT by encouraging walking and non-automotive forms of transportation. The Project Site is located within 0.25 mile of the Metro Blue Line Downtown Long Beach station, which would facilitate the use of mass transit, thereby reducing vehicle trips and miles travelled. The increase in transit accessibility and the bicycle parking spaces provided on-site would further reduce vehicle trips and VMT by encouraging walking and non-automotive forms of transportation. The Project is also located in Downtown Long Beach, which would promote walking while reducing vehicle trips to and from the Project Site. The Project would also provide pedestrian access to minimize barriers and link the Project Site with existing streets to encourage people to walk instead of drive. Overall, the Project would result in an approximately 61-percent reduction in GHG emissions from mobile sources.

Comment No. 2-3

Caltrans encourages the Lead Agency to consider any reduction in vehicle speeds to benefit pedestrian and bicyclist safety, as there is a direct link between impact speeds and the likelihood of fatality or serious injury. These methods include the construction of physically separated facilities such as wide sidewalks, raised medians, refuge islands, and off-road paths and trails, or a reduction in crossing distances through roadway narrowing. These suggestions can reduce pedestrian and bicyclist exposure to vehicles ensuring safety by lessening the time that the user is in the likely path of a motor vehicle.

Signal timing can be adjusted to include Leading Pedestrian Intervals, giving pedestrians a seven second head start. Pedestrian and bicyclist warning signage, flashing beacons, high-visibility continental crosswalks, scramble crossings, flashing yellow turn signals, high-visibility green bike lanes, other signage and buffer striping should be used to indicate to motorists that they should expect to see and yield to pedestrians and bicyclists.

Response to Comment No. 2-3

This comment suggests various strategies the City could implement to improve pedestrian and bicycle safety. These suggestions are general in nature and do not necessarily apply to the Project or Project conditions. Nevertheless, this comment is noted for the record and will be forwarded to the decision-makers for review and consideration.

Comment No. 2-4

Any development should keep livability in mind by providing shade trees, native landscaping, bioswales, street furniture, bicycle parking, bus shelters and trash cans. Bus bulb-outs can reduce conflict between bicycles and buses on busy roads. Bus only lanes are encouraged to reduce travel times and make public transit more appealing to discretionary users. Any gated communities should provide pedestrian paths and doors to ensure access to transit, shopping centers, schools and main roads. Whenever possible, a grid pattern with short blocks is recommended to promote walking. Permeable paving materials should be incorporated whenever possible. Signage can be reinforced by road design features such as lane widths, landscaping, street furniture, and other design elements.

Response to Comment No. 2-4

This comment suggests various strategies the Project and City could implement to improve livability. While the majority do not apply to the Project (i.e., bus bulb-outs, bus only lanes, access to gated communities, and development of city blocks), the Project would, as suggested, provide shade trees, native landscaping, seating areas, and trash receptacles. Signage would be provided, as required, throughout the Project and all signage material, sizes, and illumination would comply with Long Beach Municipal Code (LBMC) Chapter 21.44 pertaining to on-premises signs.

Comment No. 2-5

Storm water run-off is a sensitive issue for Los Angeles County. Please be mindful that projects should be designed to discharge clean run-off water. Discharge of storm water run-off is not permitted onto State Highway facilities without a storm water management plan.

Response to Comment No. 2-5

This comment stresses the need for stormwater management. As discussed in the Initial Study included as Appendix A of the Draft EIR, construction of the Project has the potential to temporarily alter existing drainage patterns and flows on the Project Site by exposing the underlying soils, modifying flow direction, and making the Project Site temporarily more permeable. However, the Project includes the implementation of a stormwater pollution prevention plan (SWPPP) that would specify best management practices (BMPs) and erosion control measures to be used during construction to manage runoff flows so that runoff would not impact off-site drainage facilities and receiving waters. In addition, the Project would be required to comply with all applicable City grading permit

regulations that require necessary measures, plans, and inspections to reduce sedimentation and erosion.

With implementation of the Project, impervious surfaces on the Project Site would increase to 93 percent from 75 percent under existing conditions. The on-site drainage patterns would be modified through the introduction of drainage infrastructure, although these improvements would reduce the potential for erosion or siltation. More specifically, stormwater would be conveyed via roof drains and drive aisle trench drains to the proposed capture and reuse system, which would ultimately connect to the existing 27-inch public storm in Pine Avenue. The stormwater detention system would be designed to provide 3,102 cubic feet of underground storage. During storms greater than a 10-year event, the detention system would overflow via the drive aisle trench drains and sheet flow to the existing curb and gutters that lead to an existing catch basin, entering the public storm drain system. No stormwater would be discharged onto state highway facilities. The Project would also implement best management practices (BMPs) required by the Standard Urban Stormwater Mitigation Plan (SUSMP) Manual and the City.

Based on the design of the Project's drainage improvements and through compliance with all applicable National Pollutant Discharge Elimination System (NPDES) requirements, including preparation of a SWPPP and implementation of BMPs, as well as compliance with applicable City grading regulations and SUSMP requirements, the Project would not substantially alter the existing drainage patterns of the Project Site or surrounding area such that substantial erosion, siltation, or on-site or off-site flooding would occur. Impacts with respect to stormwater would be less than significant without mitigation.

Comment No. 2-6

As a reminder, any transportation of heavy construction equipment and/or materials which requires use of oversized-transport vehicles on State highways will need a Caltrans transportation permit. We recommend large size truck trips be limited to off-peak commute periods.

Response to Comment No. 2-6

This comment states that heavy equipment and/or oversized transport vehicles would require a Caltrans permit and recommends that construction truck trips be limited to off-peak hours. The Project would obtain all necessary permits including, if required, a Caltrans transportation permit. With respect to hauling hours, Project Design Feature TRA-1 restricts hauling or transport of oversize loads between the hours of 9 A.M. and 3 P.M. only, Monday through Friday, which would avoid peak commute periods.

Comment No. 2-7

If you have any questions regarding these comments, please contact Reece Allen, the project coordinator, at reece.allen@dot.ca.gov, and refer to GTS # 07-LA-2018-02764.

Response to Comment No. 2-7

This comment concludes the letter and provides a point of contact. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment Letter No. 3

Dani Ziff
Coastal Program Analyst
South Coast Area Office
California Coastal Commission
301 E. Ocean Blvd., Ste. 300
Long Beach, CA 90802-4830

Zach Rehm
District Supervisor
South Coast Area Office
California Coastal Commission
301 E. Ocean Blvd., Ste. 300
Long Beach, CA 90802-4830

Comment No. 3-1

Thank you for the opportunity to review the draft Environmental Impact Report (DEIR) for the 100 East Ocean Boulevard Project (received by our office in August 2019). These comments are supplemental to the comments Commission staff previously provided on the Initial Study for this project dated January 2, 2019 (attached).

As indicated in the DEIR, the proposed project (construction of a new 30-story, 537,075 square foot hotel building up to 375.5 feet in height with 429 hotel rooms, pool, spa, and fitness facilities, restaurant, roof deck, executive office, meeting, and ballroom spaces and improvements to Victory Park) at 100 East Ocean Boulevard is located within the City of Long Beach coastal zone.

Response to Comment No. 3-1

This introductory comment, which correctly summarizes the Project Description, is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 3-2

In Long Beach, the requirements of the California Coastal Act are met through compliance with the certified Local Coastal Plan (LCP). The City will process a local coastal development permit for the proposed project under the provisions of the certified LCP. The project site is also located within the appealable area of the coastal zone. Therefore, the

City's final action on the required local coastal development permit may be appealed to the Coastal Commission on the grounds that the approved development does not conform to the policies and standards of the LCP.

The City's Downtown Shoreline Planned Development Ordinance (PD-6) contains the relevant standards and policies of the certified LCP to which the proposed project must conform. The proposed project is located within Subarea 7 of the Downtown Shoreline Planned Development District. The standards of the certified LCP for Subarea 7 of the Downtown Shoreline Planned Development District carry out the Coastal Act requirements to protect public access to the coast and to protect visual resources, including public views toward the shoreline. Therefore, any findings regarding the project's consistency with the City of Long Beach LCP and California Coastal Act must contain a detailed discussion of how the proposed project meets the requirements laid out in certified PD-6, Subarea 7.

Response to Comment No. 3-2

This comment, which summarizes the requirements of the City of Long Beach Local Coastal Program (LCP), is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 3-3

The following policies were referenced in Coastal Commission staff's previous comments, but some do not appear to have been fully addressed in the DEIR:

Public Access

- a. PD-6, General Development and Use Standards, Policy b.1: Primary vehicle access via Pine Avenue.

The DEIR indicates that vehicular access will be provided from both Pine Avenue and Seaside way, [sic] with the retention of the existing curb cuts on Ocean Blvd for loading and unloading. This is plainly inconsistent with the LCP policy and the final EIR should analyze alternative designs that provide vehicular access from one street (preferably Pine Ave), not all three streets.

Response to Comment No. 3-3

Requirement (b)1 set forth in the Downtown Shoreline Planned Development District (referred to as PD-6; City of Long Beach Ordinance No. 11-0017) states the following:

Primary vehicle access to all uses shall be limited to Seaside Way, Golden Avenue, Chestnut Place, Queen's Way (Magnolia Avenue), Pine Avenue, Locust Avenue, Elm Avenue, Linden Avenue and Shoreline Drive, as appropriate.

As discussed in the Initial Study for the Project, included in Appendix A of the Draft EIR, the existing driveways on Ocean Boulevard would be *used for passenger loading and unloading only* [emphasis added], with access to the on-site parking garage provided from Pine Avenue and Seaside Way in accordance with PD-6 Requirement (b)1. Thus, the Pine Avenue and Seaside Way driveways would be used for primary vehicular access, and the existing Ocean Boulevard driveways would function as secondary access. It is further noted that Requirement (b)1 states primary vehicle access shall be limited "as appropriate." It is appropriate for a hotel use fronting Ocean Boulevard to provide secondary vehicular access for passenger drop off and pick up at the main pedestrian entrance, particularly when existing driveway locations and curb cuts would be used, as included as part of the Project.

Comment No. 3-4

- b. PD-6, General Development and Use Standards, Policy b.5 & Subarea 7, Policy e: Continuation of the east/west pedestrian walkway and improvement of the park strip and plazas.

This element appears to have been incorporated into the DEIR. The final design should incorporate improvements to both street level walkways and the elevated bridge over Seaside Way connecting to the Convention Center.

Response to Comment No. 3-4

PD-6 Requirement (b)5 states the following:

A continuous east/west pedestrian walk at Ocean Boulevard level, from Cedar Avenue to Alamitos Avenue, and from Queensway Drive to Golden Shore Avenue, not less than twenty feet (20') in width, accessible across each subarea from Ocean Boulevard, shall be provided by all new construction and all condominium conversions of sites located between Ocean Boulevard and Seaside Way unless modified by specific subarea criteria. This walk, in Subarea 7, shall connect to the north/south Promenade. This walk shall be located at the southern edge of all development unless the need for appropriate connections to other sides, or opportunities for more active pedestrian areas, indicate an alternate location is a better design

solution. Viewing promontory bays shall articulate the terminus of the north/south access(es) from Ocean Boulevard. The pedestrian framework shall be integrated and linked to Seaside Way, and all public open spaces and facilities.

PD-6, Subarea 7, Requirement (e) states the following:

Developer on and off-site Improvements and Maintenance. New development or change of use of existing buildings shall provide for the eastward continuation of the east/west pedestrian walkway across the subject sites. Such development or change in use shall also be required to improve the park strip along Ocean Boulevard and the plazas created by the corner cut-offs, except as otherwise provided for the Promenade.

As described in Section II, Project Description, of the Draft EIR, improvements to the portion of Victory Park within the Project Site (i.e., the “park strip along Ocean Boulevard” referenced in Subarea 7 Requirement (e)) would include a pedestrian walkway connecting the corner of Pine Avenue and Ocean Boulevard to the existing Convention Center Walkway located immediately east of the Project Site. The Convention Center Walkway is a north/south pedestrian promenade (referred to as Promenade South in Ordinance No. 11-0017) that runs between Ocean Boulevard and the Long Beach Convention & Entertainment Center and includes a pedestrian bridge over Seaside Way. The pedestrian improvements within the on-site portion of Victory Park would be integrated with the portion of Victory Park located on the adjacent property to the east, thus collectively creating a plaza-type space or pedestrian mall.

As for the east/west pedestrian walkway referenced in both of the policies cited above, an existing elevated walkway along the north side of Seaside Way extends east from the Convention Center Walkway to a plaza in front of the Terrace Theater, located in PD-6, Subarea 8. Any eastward extension of this pedestrian walkway would be located off-site on property not owned by the Project Applicant. Accordingly, the Project does not include such improvements. Any westward extension of the east/west pedestrian walkway would require construction of a bridge across Pine Avenue, as well as reconfiguration of the Ocean Center Building, a Long Beach Historic Landmark located on the west side of Pine Avenue. Construction of such a bridge may not be physically feasible at this location and likely would result in significant construction-related impacts. Additionally, the Ocean Center Building is currently undergoing historic restoration to preserve the historic landmark consistent with the Secretary of the Interior’s Standards and in compliance with the State Office of Preservation. As a Long Beach historic landmark, any exterior building reconfiguration designed to accommodate a bridge across Pine Avenue would be inconsistent with applicable historic guidelines. However, in the spirit of the referenced

standards, the Project includes new east/west sidewalks along both Ocean Boulevard and Seaside Way to facilitate pedestrian connectivity throughout the Project area. The Site Plan Review application and design drawings filed with the City of Long Beach illustrate the pedestrian improvements described herein.

Comment No. 3-5

- c. PD-6, General Development and Use Standards, Policy b.3: All public walkways and viewing areas shall be guaranteed for public access through deed restrictions and/or easements.

This should be referenced as a required project element and/or public access mitigation measure in the final EIR.

Response to Comment No. 3-5

PD-6 Requirement (b)3 states the following:

All subareas should contain public walkways, seating in landscape areas, and, whenever feasible, shoreline viewing areas as specified in the Subarea Standards. Such areas shall be guaranteed public access through easements or deed restriction, or lease agreement provisions, whenever required as public walkways in this Plan.

While the Project Site does not include ground-level shoreline viewing areas given intervening development, public walkways in the form of sidewalks would be provided along Ocean Boulevard, Pine Avenue, and Seaside Way, in addition to the previously described pedestrian walkway connecting the corner of Pine Avenue and Ocean Boulevard to the existing Convention Center Walkway. Furthermore, a publicly-accessible perimeter walkway/arcade at Ocean Boulevard grade would line the western and southern sides of the building, with public access guaranteed (i.e., as an easement, deed restriction, or lease agreement) as a condition of approval. The Site Plan Review application and design drawings filed with the City of Long Beach illustrate compliance with this PD-6 standard.

As for the suggestion that the provision of public walkways and guaranteed public access be required as mitigation (and similar suggestions in the comments below to require additional mitigation), it is noted that CEQA Guidelines 15126.4(a)(3) specifies that mitigation measures are only required to address significant environmental impacts, but none has been identified here.

Comment No. 3-6**Building Design**

- d. PD-6, General Development and Use Standards, Policy c.1: Provision of views between buildings.

This should be referenced as a required project element and/or public access mitigation measure in the final EIR. The final EIR should analyze the project's consistency with the policy, given the site conditions and the adjacent land uses.

Response to Comment No. 3-6

PD-6 Requirement (c)1 states the following:

All buildings shall be arranged on their sites so as to provide views between the buildings, so as to avoid the impression of a wall of buildings, so as to minimize blocking shoreline views of other buildings, and so as to entice pedestrians into the shoreline area.

The proposed Project consists of a single building designed to comply with applicable PD-6 and Subarea 7 requirements, including the provision of view opportunities. While exact distances would vary based on elevation, the Project building would be between 48 feet and 105 feet away from the 180 E. Ocean building and between 100 and 119 feet away from the Ocean Center Building. View opportunities of the shoreline from the ground level of the Project Site would be limited due to intervening development to the south. However, as discussed in Response to Comment No. 3-4, the Project includes ground-level pedestrian connections to the Convention Center Walkway, which is a north/south pedestrian promenade that runs between Ocean Boulevard and the Long Beach Convention & Entertainment Center and includes a pedestrian bridge over Seaside Way. This walkway and the associated pedestrian bridge offer views of the shoreline but are located on an adjacent property that is not owned by the Project Applicant. Accordingly, the Project has been designed to respect and complement such view opportunities. Additionally, extensive views of the shoreline would be available from the upper stories of the proposed building, including several rooftop decks. The Site Plan Review application and design drawings filed with the City of Long Beach illustrate compliance with this PD-6 standard. Please also refer to Response to Comment No. 3-5

regarding the CEQA requirement to provide mitigation measures only when a significant environmental impact has been identified.¹

Comment No. 3-7

- e. PD-6, General Development and Use Standards, Policy c.4: Minimum 80-foot setback from Ocean Boulevard or setback the width of the City park strip for new development.

This should be referenced as a required project element and/or public access mitigation measure in the final EIR.

Response to Comment No. 3-7

PD-6 Requirement (c)4 states the following:

All new development between Ocean Boulevard and Seaside Way, above the Ocean Boulevard curb level, shall be set back a minimum of eighty feet (80') from the Ocean Boulevard curblines, as existing on July 1, 1989, or set back the width of the City park strip, whichever is greater.

As shown in Figure II-3 in Section II, Project Description, of the Draft EIR, the proposed building would be set back from Ocean Boulevard the entire width of Victory Park within the boundaries of the Project Site. Specifically, the northernmost edge of the building at ground level would measure approximately 98 feet from the Ocean Boulevard curblines, thus exceeding the minimum requirement of 80 feet. Although the Site Plan Review application and design drawings filed with the City of Long Beach illustrate compliance with this PD-6 standard, the City will include this as a condition of approval. Please also refer to Response to Comment No. 3-5 regarding the CEQA requirement to provide mitigation measures only when a significant environmental impact has been identified.²

Comment No. 3-8

- f. Provision of a northeast corner cut-off to create a cohesive entry feature to Promenade South from Pine Avenue (PD-6, Subarea 7, Policy c.1).

¹ CEQA Guidelines 15126.4(a)(3).

² CEQA Guidelines 15126.4(a)(3).

This should be referenced as a required project element and/or public access mitigation measure in the final EIR.

Response to Comment No. 3-8

PD-6, Subarea 7, Requirement (c)1 states the following:

Site location. New development between the Jergins Trust site and the Breakers should be set back not less than twenty feet (20') behind the string line between the two buildings to accent the entry to the Promenade South and to highlight the two buildings. In no case shall it be set back less than one hundred twenty feet (20'') from the curblines of Ocean Boulevard. A corner cut-off for access from Promenade North measuring one hundred twenty feet (120') by one hundred twenty feet (120') shall be provided at the northwest corner of the site, measured along the north and west property lines, clear from Ocean Boulevard grade to the sky. A side yard setback of not less than ten feet (10') shall be provided from the property lines on the east side. Replacement of the Jergins Trust building shall provide a similar corner cut-off on the northeast corner of the site in order to create a cohesive entry feature to the Promenade South from Pine Avenue.

While much of this requirement applies to development within the property immediately east of the Project Site, the last sentence calls for a corner cut-off at the northeast corner of the site. As discussed in Section II, Project Description, of the Draft EIR, at the northeastern corner of the building, the lower floors would have an indented, angled footprint to create a corner cut-off in accordance with PD-6, Subarea 7 requirements. This angled cut-off is best illustrated in Figure II-9 in Section II, Project Description, which shows the ground-level pedestrian connection from Pine Avenue and Ocean Boulevard to the Convention Center Walkway (i.e., Promenade South). Although the Site Plan Review application and design drawings filed with the City of Long Beach illustrate compliance with this PD-6 standard, the City will include this as a condition of approval. Please also refer to Response to Comment No. 3-5 regarding the CEQA requirement to provide mitigation measures only when a significant environmental impact has been identified.³

³ CEQA Guidelines 15126.4(a)(3).

Comment No. 3-9

- g. Conformance with the conditions required in order to exceed the 250-foot height limit (PD-6, Subarea 7, Policy c.2).

The specific conditions required for excess height (articulation, smaller footprint, setbacks, enhanced pedestrian and visitor uses at grade, enhanced public walkways, traffic analysis) should be called out as required project elements and/or mitigation measures within the final EIR. The final EIR should analyze the proposed project for consistency with each condition.

Response to Comment No. 3-9

PD-6, Subarea 7, Requirement (c)2 states the following:

Height. Low and/or high rise, not to exceed two hundred fifty (250') feet above Ocean Boulevard grade, except for the development between the Promenade South and Pine Avenue, the height can exceed two hundred fifty feet (250') up to four hundred twenty-five feet (425') only if the building meets the following conditions and is designed and articulated as follows:

- A. The portion of the building higher than eighty-five feet (85') above Ocean Boulevard grade has a building footprint no greater than seventy percent (70%) of the site area, and is set back a minimum of twenty-five feet (25') from the east property line, and a minimum of fifteen feet (15') from the west property line, with the exception of minor projections;*
- B. Horizontal architectural features and minimal terracing, although subordinate to the building's vertical nature, occur substantially in line with the top of the parapet of the front parapet of a surviving Ocean Center Building (100 West Ocean Boulevard) and with the top of the parapet of a surviving building (180 East Ocean Boulevard), both existing at the time of this amendment;*
- C. The periphery of the building at the Ocean Boulevard level shall contain only pedestrian serving uses such as retail, office, and entrance lobbies; and shall provide a minimum of ten-foot-wide (10') by ten-foot-high (10') open walkway or arcade adjacent to the west and south property lines which shall always remain open and accessible to the public every day between 8:00 A.M. and dusk;*
- D. The developer of the site shall submit a traffic study for the proposed building which shows that the additional height of the building above two hundred fifty feet (250') does not reduce the Level of Service (LOS) at the*

intersections of Ocean Boulevard/Pine Avenue and Pine Avenue/Seaside Way below LOS D.

The following discussion evaluates Project consistency with each of these requirements:

With regard to Requirement (c)2.A addressing building footprint and setbacks, based on the architectural drawings for the Project and as illustrated in Figure II-7 in Section II, Project Description, of the Draft EIR, the hotel would consist of a tower over a podium that measures approximately 85 feet above sea level or approximately 56 feet above the Ocean Boulevard grade. The portion of the building taller than 85 feet above the Ocean Boulevard grade (i.e., Level 8 of the tower and higher) would have a gross floor area of 14,632 square feet or approximately 39.5 percent of the buildable site area (excluding Victory Park). Additionally, beginning at Level 8, the tower would be set back 25 feet from the eastern property line and nearly 31 feet from the western property line.

With regard to Requirement (c)2.B addressing architectural features and terracing, it is noted that 100 West Ocean Boulevard is the Ocean Center Building to the west across Pine Avenue and 180 East Ocean Boulevard is the office building (sometimes referred to as the Salvation Army Building) immediately east of the Project Site. These buildings have heights of roughly 180 feet and 200 feet, respectively. The Ocean Center Building has a podium fronting Ocean Boulevard that is seven stories in height; behind that is a tower element fronting Pine Avenue, roughly midway between Ocean Boulevard and Seaside Way, and then the podium mass steps down as it approaches the shoreline to the south. The Salvation Army Building consists of a tower with an octagonal footprint, which is supported by a short podium around the most of the building perimeter and columns at the northwest corner at the Ocean Boulevard grade.

The Project has been designed in relation to the range of podium solutions exemplified by these two existing adjacent buildings. Specifically, in relation to the Ocean Center Building at 100 West Ocean Boulevard, a portion of the proposed podium would rise five levels above Ocean Boulevard grade and steps down approximately 20 feet along the eastern façade as the podium extends south toward Seaside Way. Similar to the Salvation Army Building at 180 East Ocean, the proposed tower form would extend down to the Ocean Boulevard grade at the northwest corner of the building. Through these design elements, the proposed building would not only substantially align with the podium masses of the existing adjacent buildings but would also allow for the existing relationship between those buildings to be carried through the Project Site. Such a design would maintain an architectural relationship that could not be achieved by simply mirroring the existing façades of the adjacent structures.

Requirement (c)2.C pertains to ground-level uses along Ocean Boulevard and publicly accessible areas along the western and southern property lines. As described in Section II, Project Description, of the Draft EIR, the Ocean Boulevard frontage of the proposed building would include the main entrance and main lobby. In addition, a publicly-accessible 10-foot-wide walkway/arcade at Ocean Boulevard grade would line the western and southern sides of the building and connect to Convention Center Walkway (Promenade South). Along the building's western side, this walkway would be open to the sky, with any projecting canopies exceeding the 10-foot minimum height clearance. Along the building's southern side, the walkway would consist of an open arcade covered by a building overhang that would provide more than 10 feet of clearance.

As for Requirement (c)2.D, the Project's traffic impacts are addressed in Section IV.E, Transportation/Traffic, of the Draft EIR based on the Traffic Study prepared by Fehr & Peers, which is included as Appendix E.1 of the Draft EIR. As shown in Table IV.E-5 and Table IV.E-6 therein, neither the Ocean Boulevard/Pine Avenue or Pine Avenue/Seaside Way intersections would experience a Level of Service (LOS) below LOS D under either Existing Plus Project Conditions (2018) or Future Plus Project Conditions (2022), respectively. Accordingly, the proposed uses located above 250 feet in height (i.e., Levels 22 to 30 of the hotel), as a subset of the Project as a whole, would not result in an LOS below LOS D.

Based on the above, the Project would meet the conditions necessary to allow building height in excess of 250 feet and the Site Plan Review application and design drawings filed with the City of Long Beach illustrate compliance with these standards. Nonetheless, the City will include the Project elements described above as a condition of approval. Please also refer to Response to Comment No. 3-5 regarding the CEQA requirement to provide mitigation measures only when a significant environmental impact has been identified.⁴

Comment No. 3-10

- h. Payment of in-lieu fee equivalent to one-half the cost of a bridge structure across Pine Avenue (PD-6, Subarea 7, Policy c.4.G).

This LCP policy does not appear to be addressed in the draft EIR. The final EIR should referenced [sic] it as a required project element and/or public access mitigation measure—and should analyze the potential cost and feasibility to build an actual bridge across Ocean Avenue to connect to the Ocean Center building or Seaside Way

⁴ CEQA Guidelines 15126.4(a)(3).

sidewalk/public park on the other side of the street. Actual construction of the bridge could provide mitigation for project impacts to public access (e.g. new curb cuts or provision of less than the code-required number of parking spaces).

Response to Comment No. 3-10

PD-6, Subarea 7, Requirement (c)4.G states the following:

The developers of all construction of new buildings, of all condominium conversions, and of all changes in the use shall provide for the construction of the Promenade and public walkways abutting the site and over one-half the width of the public right-of-way necessary to join the Promenade to the adjoining property. On the site of the old Jergins building, future developers are required to pay an in-lieu fee equivalent to one-half of the cost of a bridge structure across Pine Avenue. The in-lieu fee shall be used only for the expansion of the Promenade South bridge over Seaside Way and/or for the extension of the east/west public walkway from the Promenade South to Subarea 8.

As described in Section II, Project Description, of the Draft EIR and discussed above, the Project includes a ground-level pedestrian connection from Pine Avenue and Ocean Boulevard to the existing Convention Center Walkway (i.e., Promenade South). The Convention Center Walkway is a north/south pedestrian promenade that runs between Ocean Boulevard and the Long Beach Convention & Entertainment Center and includes a pedestrian bridge over Seaside Way. This walkway and the associated pedestrian bridge are located on an adjacent property that is not owned by the Project Applicant. Accordingly, the Project does not include improvements to the off-site bridge. However, in compliance with applicable PD-6 standards, the Project includes new east/west sidewalks along both Ocean Boulevard and Seaside Way, as well as a publicly-accessible walkway/arcade at Ocean Boulevard grade along the western and southern sides of the building, to facilitate pedestrian access and connectivity throughout the Project area.

As to the suggestion that this EIR analyze the potential cost and feasibility to build a bridge (across Pine Avenue per the policy text, not across Ocean Avenue as stated in the comment), Ordinance No. 11-0017 does not require such an analysis, nor does the City have any such plans. More specifically, the City has no plans for a westward extension of the east/west public walkway beyond the Project's arcade along the southern building façade. Any further westward extension of the east/west pedestrian walkway would involve construction of a bridge across Pine Avenue as well as reconfiguration of the Ocean Center Building, a Long Beach Historic Landmark, located on the west side of Pine Avenue. The Ocean Center Building is currently undergoing historic restoration to preserve the historic

landmark consistent with the Secretary of the Interior's Standards and in compliance with the State Office of Preservation. As a Long Beach historic landmark, any exterior building reconfiguration designed to accommodate a bridge across Pine Avenue would be inconsistent with applicable historic guidelines. Accordingly, an evaluation of such a bridge is outside the scope of this EIR. Additionally, because the City has no plans to construct the referenced pedestrian bridge, no fee payment will be required. Please also refer to Response to Comment No. 3-5 regarding the CEQA requirement to provide mitigation measures only when a significant environmental impact has been identified.⁵

Comment No. 3-11

- i. Design of building with bird-safe treatments (PD-6, General Development and Use Standards, Policy c.5).

This draft EIR references this as a project element and the final EIR should continue to do so, with reference to it as mitigation for a potential impact to biological resources (bird strikes).

Response to Comment No. 3-11

PD-6 Requirement (c)5 states the following:

Bird-Safe Buildings.

a. Bird-Safe Building Policies:

- 1. All new buildings, and major renovations of existing buildings, shall be required to provide bird-safe building facade treatments in order to reduce potential for bird strikes.*
- 2. Landscaped areas next to buildings, including patios and interior courtyards, shall be designed and sited to avoid or minimize bird-strike hazards caused by reflective building surfaces.*
- 3. Buildings shall be designed to use minimal external lighting (limited to pedestrian safety needs) and to minimize direct upward light, spill light, glare and artificial night sky glow. Buildings shall also be designed to minimize light pollution from interior lighting to the maximum feasible extent.*

⁵ CEQA Guidelines 15126.4(a)(3).

b. Bird-Safe Building Standards. All new buildings, and major renovations of existing buildings, shall be required to provide birdsafe building treatments for the facade, landscaping, and lighting consistent with the guidelines provided below:

1. Glazing treatments:

- (a) Fritting, permanent stencils, frosted, nonreflective or angled glass, exterior screens, decorative latticework or grills, physical grids placed on the exterior of glazing, or UV patterns visible to birds shall be used to reduce the amount of untreated glass or glazing to less than thirty-five percent (35%) of the building facade.*
- (b) Where applicable, vertical elements within the treatment pattern should be at least one-quarter inch (1/4") wide at a maximum spacing of four inches (4") and horizontal elements should be at least one-eighth inch (1/8") wide at a maximum spacing of two inches (2").*
- (c) No glazing shall have a "Reflectivity Out" coefficient exceeding thirty percent (30%). That is, the fraction of radiant energy that is reflected from glass or glazed surfaces shall not exceed thirty percent (30%).*
- (d) Equivalent treatments recommended by a qualified biologist may be used if approved by the City and/or the Coastal Commission.*

2. Lighting Design:

- (a) Nighttime lighting shall be minimized to levels necessary to provide pedestrian security.*
- (b) Buildings shall be designed to minimize light spillage and maximize light shielding to the maximum feasible extent.*
- (c) Building lighting shall be shielded and directed downward. Up-lighting is prohibited. Use of "event" searchlights or spotlights shall be prohibited.*
- (d) Landscape lighting shall be limited to low intensity and low-wattage lights.*

(e) Red lights shall be limited to only that necessary for security and safety warning purposes.

3. Landscaping:

(a) Trees and other vegetation shall be sited so that the plants are not reflected on building surfaces.

(b) In order to obscure reflections, trees and other vegetation planted adjacent to a reflective wall or window shall be planted close to (no further than three feet from) the reflective surface.

(c) For exterior courtyards and recessed areas, building edges shall be clearly defined by using opaque materials or non-reflective glass.

(d) Walkways constructed of clear glass shall be avoided.

4. Building Interiors:

Light pollution from interior lighting shall be minimized through the utilization of automated on/off systems and motion detectors.

5. Lights Out For Birds:

The City shall encourage building owners and operators to participate in "Lights Out For Birds" programs or similar initiatives by turning off lighting at night, particularly during bird migration periods.

As discussed in the Initial Study prepared for the Project, included as Appendix A of the Draft EIR, the Project has been designed as a "bird-safe" building. Based on the discussion therein as well as additional details provided in the Site Plan Review application and design drawings filed with the City of Long Beach, 54 percent of the building façade area would consist of precast concrete, metal panels, louvers, or opaque glass. The remaining 46 percent of the building façade would consist of vision glass, 28 percent of which would have bird-safe treatments utilizing qualified fritting or acid etching such as Walker Textures Avi-Protek Vitre Claire Motif in order to minimize the potential for bird strikes. Priority would be given to the podium levels of the building as the lower levels are most susceptible to bird confusion due to reflections from the surrounding ground level. Additionally, a consistent pattern of vision glazing would be used across the tower façade to reduce the untreated vision glass area to 32.8 percent of the overall building skin. The proposed glazing types would have an exterior visible reflectance rating of 8 to 11 percent and an exterior solar reflectance of between 15 and 28 percent. These Project elements

would meet the requirements noted in PD-6 Requirement (c)5.b.1 and would be included as a condition of approval by the City.

Furthermore, Project development would not funnel migrating birds into existing or proposed structures or constrain the flight paths within the extensive open air space surrounding the Project Site. Therefore, as concluded in the Initial Study, the Project is not expected to impact the Pacific Flyway or otherwise substantially interfere with the movement or migration of any native or migratory wildlife species. Project impacts related to wildlife corridors were determined to be less than significant, and no mitigation measures are required.

As also discussed in the Initial Study, lighting in all landscaped areas and within the accessible roof decks would be directed downward. Accent lighting at the building exterior would be shielded to prevent light spillage. Furthermore, Project-related lighting would be similar in nature to that of surrounding development in the area in order to provide adequate visibility and safety. Proposed lighting would not include unusually bright lights or lights directed off-site. In summary, exterior lighting would be designed to achieve a balance between enhancing the building, providing pedestrian safety, and meeting the shielding requirements of PD-6 Requirement (c)5.b.2. As determined in the Initial Study, indirect impacts to biological resources associated with Project lighting would be less than significant, and no mitigation measures are required.

Please refer to Response to Comment No. 3-5 regarding the CEQA requirement to provide mitigation measures only when a significant environmental impact has been identified.⁶

Comment No. 3-12

Parking

- j. Downtown Shoreline Policy Plan, Residential Uses and Overnight Accommodations, South Side of Ocean Boulevard [Excluding Pike Area], pages III-DS-29 & 30, states:

Each development shall supply required parking within the building, except that new hotels may be permitted with off-site parking consistent with all of the following requirements:

- A. All off-site parking shall be located within 600 feet of the hotel that it serves.

⁶ CEQA Guidelines 15126.4(a)(3).

- B. Existing parking shall not be displaced. Existing parking which is not otherwise encumbered may be used to meet up to one-half of the peak parking demand of the hotel through a shared-use parking agreement that is consistent with an approved parking study that demonstrates that the project will provide adequate parking to meet the needs of the hotel without causing negative impacts to coastal access or access to public recreational facilities.
- C. All required parking shall be constructed concurrently with the hotel and shall be open for use prior to or concurrent with the occupancy of the hotel.
- D. All off-site parking shall be dedicated for use of the hotel, and all succeeding uses, for the life of the hotel structure.

The final EIR should clarify whether the proposed off site parking at the Terrace Theater Parking Garage is within 600 feet of the proposed hotel (it appears to be further away). The final EIR should clarify whether such parking is already encumbered, would be encumbered by the approval of the subject project, or be shared with another use consistent with the requirement.

Response to Comment No. 3-12

The policies cited above are set forth in the City of Long Beach Local Coastal Program, which was adopted and certified in 1980. As discussed in Section II, Project Description, of the Draft EIR, off-site parking for the Project would be located at the existing Terrace Theater Parking Garage, approximately 0.2 mile southeast of the Project Site. Based on an exhaustive search performed by the Project Applicant with assistance from the City, it was determined that this is the closest existing parking supply available for use by the proposed hotel. The provision of on-site parking was also considered but determined to be infeasible due to the number of parking stories necessary to meet demand and the cost of extensive subterranean parking. The 600-foot off-site distance requirement applies to self-parking scenarios (based on the distance most people are comfortable walking), but since all Project parking would be valet-only, this requirement is not relevant. Furthermore, LBMC Section 21.44.222A states that the 600-foot off-site distance requirement does not apply in redevelopment areas. The Project Site is located within the former redevelopment area and is in the greater Downtown area, which is also exempt from the rule. Further discussion of the off-site parking arrangement is provided in the Parking Memo prepared for the Project by Fehr & Peers, included in Appendix E.2 of the Draft EIR.

It is further noted that given the age of the LCP, some of its policies no longer accurately reflect current conditions in terms of land use and development within the Project area, and thus minor deviations from the stated policies may be necessary and appropriate. The City's Site Plan Review Committee has the authority to grant minor

exceptions to development regulations and will clarify that the 600-foot rule does not apply in this case for the reasons outlined above.

Comment No. 3-13

- k. Enclosed and subterranean parking, unless parking blends into the façade of the rest of the building (PD-6, Subarea 7, Policy d).

The DEIR notes that one level of on site parking is underground and one level is partially at grade. The enclosure requirement should be referenced in the final EIR.

Response to Comment No. 3-13

PD-6, Subarea 7 Policy (d) states the following:

Parking. Number of spaces. Reuse of existing buildings shall not require parking in excess of what currently exists. New construction shall provide parking as required for new development pursuant to the parking standards listed in the General Development and Use Standards for PD-6, or pursuant to a detailed parking study that demonstrates that the project will provide adequate parking to meet the needs of the development without causing negative impacts to coastal access or access to public recreational facilities. All parking shall be enclosed and located below Ocean Boulevard level, except if the architectural treatment of higher levels of parking blends into the facade of the rest of the building so that they do not appear as parking levels from the outside of the building. The periphery of the building at the Ocean Boulevard level shall contain only pedestrian serving uses such as retail, office, and entrance lobbies; and shall provide a minimum of ten-foot-wide (10') by ten-foot-high (10') open walkway or arcade adjacent to the west and south property lines as further described in Section (c).2.C. of the Specific Development and Use Standards for Subarea 7. Office building and commercial parking shall be available for public use on evenings and weekends. Office uses may lease Convention Center parking for usual business requirements.

In terms of parking supply, an analysis of the Project's peak parking demand and associated parking impacts is provided in Section IV.E, Transportation/Traffic, and the shared parking study in Appendix E.2 of the Draft EIR. As determined therein, the off-site parking spaces available for Project use at the Terrace Theater Parking Garage would allow for a surplus, thus exceeding the hotel's worst-case parking demand. Also refer to Response to Comment No. 3-9 regarding the lobby at the Ocean Boulevard frontage.

Relative to parking design, as stated in Response to Comment No. 3-9, the western and southern sides of the building would each include a garage opening in excess of 10 feet by 10 feet for vehicular access to the garage. The western and southern façades and elevations are illustrated in Figures II-6 and II-7 in Section II, Project Description, of the Draft EIR. As shown, these ground level façades would appear almost identical to that of the floor above, with the exception of the garage openings and any openings necessary to provide access to ground level trash and utility areas. In particular, a small secondary lobby would be provided at the corner of Pine Avenue and Seaside Way. Thus, the semi-subterranean parking area would blend into the façade of the rest of the building. The Site Plan Review application and design drawings filed with the City of Long Beach illustrate compliance with this PD-6 standard.

Comment No. 3-14

- I. Consistency with certified policies of Chapter 21.41, Off-street Parking and Loading Requirements, of the City of Long Beach Zoning Code.

Appendix E of the Draft EIR notes: a strict reading of the Municipal Code results in a requirement of 891 parking spaces. However, the draft EIR project description includes just 151 parking spaces on site (plus an undetermined number off site). The final EIR should analyze the impacts of providing the all of the required parking on site, and of alternatives which provide less than the required number of parking spaces but more than 151. Additional mitigation measures which could be required to justify reduced on site parking (or reduced net number of parking spaces provided) should be analyzed.

Response to Comment No. 3-14

As stated in Section II, Project Description, of the Draft EIR, the Project includes 151 on-site parking spaces, and an additional 280 parking spaces would be located off-site at the existing Terrace Theater Parking Garage. An analysis of the Project's peak parking demand and associated parking impacts is provided in Section IV.E, Transportation/Traffic, and the shared parking study in Appendix E.2 of the Draft EIR. As discussed therein, a strict application of the LBMC parking requirements would require 891 parking spaces for the Project. However, since the hotel's parking demand would peak at different times of the day or week, strict application of the LBMC parking requirements would result in an oversupply of parking.

According to the shared parking analysis, the scenario with the greatest estimated parking demand would be a worst-case weekend event entailing full occupancy of the hotel, restaurant, and event space. During a worst-case weekend event, the estimated parking demand would be 395 spaces, which includes 48 spaces for employees, resulting in a need for 347 guest spaces. Accounting for a 20-space parking buffer required by the

City, 216 off-site parking spaces would be required. Accordingly, a surplus of 64 parking spaces would remain available at the Terrace Theater Parking Garage. Furthermore, as set forth in Project Design Feature TRA-2, the Project's TDM Plan would reduce vehicular trips, which in turn would reduce parking demand. Relevant TDM measures would include bike facilities, the availability of transit passes, parking unbundling, and a guaranteed ride home program for employees, among others.

While sufficient parking would be provided through a combination of on- and off-site parking, as also discussed in Section IV.E, Transportation/Traffic, the Project meets the necessary definitions set forth in PRC Section 21099 and thus, pursuant to SB 743, the Project's parking impacts shall not be considered a significant impact on the environment as a matter of law. Please refer to Response to Comment No. 3-5 regarding the CEQA requirement to provide mitigation measures only when a significant environmental impact has been identified.⁷

It is noted that the provision of on-site parking was also considered but determined to be infeasible due to the number of parking stories necessary to meet demand and the cost of extensive subterranean parking. As for the suggestion that Project alternatives with different parking configurations be evaluated, each of the alternatives evaluated in Section V, Alternatives, of the Draft EIR includes more than 151 on-site parking spaces. Specifically, Alternative 2 includes a total of 775 vehicle parking spaces in an 8-level parking garage; Alternative 3 would provide a total of 564 vehicle parking spaces in a 6-level parking garage; Alternative 4 includes total of 731 vehicle parking spaces in a 7-level parking garage; and Alternative 5 would provide 898 vehicle parking spaces in a 9-level parking garage. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 3-15

Specifically, the proposed tunnel improvement should be considered as a potential mitigation measure for public access—with an actual connection to the street or publically [sic] accessible location.

Response to Comment No. 3-15

As indicated in Response to Comment No. 3-5, no significant impact to public access has been identified and accordingly, no mitigation is required. Nonetheless, it is noted that the Project's improvements to the Jergins Trust Tunnel include a connection to a

⁷ CEQA Guidelines 15126.4(a)(3).

lower level lobby of the proposed hotel and reopening of the tunnel for public access. Refer to Section IV.B, Cultural Resources—Historic Resources, and the associated Historic Resources Memo and Interpretive Plan provided in Appendices C.1 and C.2 of the Draft EIR for a complete description of the proposed improvements. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 3-16

Additionally, as previously referenced, the construction of an actual bridge (rather than in lieu fee) connecting the existing elevated walkways at the convention center to the Ocean Center building or Seaside Way sidewalk/public park on the other side of the street should be considered as a mitigation measure.

Response to Comment No. 3-16

Please refer to Response to Comment No. 3-10, which addresses this same comment. Please also refer to Response to Comment No. 3-5 regarding the CEQA requirement to provide mitigation measures only when a significant environmental impact has been identified.⁸ This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 3-17

Landscaping

m. Consistency with certified policies of Chapter 21.42, *Landscaping Requirements*, of the City of Long Beach Zoning Code.

The final EIR should analyze the potential provision of entirely low water use landscaping as a project element and/or public access mitigation measure. The final EIR should analyze the potential to plant new trees native to the Southern California coastal environment rather than the palm trees referenced in the draft EIR.

Response to Comment No. 3-17

The Project's landscape plan is described in Section II, Project Description, of the Draft EIR and depicted in Figures II-9 through II-13 therein. While PD-6, Subarea 7 does not include specific open space requirements, the Project would provide 37,404 square feet of open space, including improvements to Victory Park totaling 13,158 square feet, new

⁸ CEQA Guidelines 15126.4(a)(3).

landscaping, and a variety of amenities for hotel guests and visitors including an 11,288-square-foot pool deck and bar, all of which have been designed to comply with or exceed the requirements of LBMC Chapter 21.42. New palm trees would be planted along Seaside Way, Pine Avenue, and Ocean Boulevard within Victory Park (essentially replacing existing palms along both Pine Avenue and Ocean Boulevard), and water efficient plants such as agave, euphorbia, and bamboo muhly would be planted throughout the Project Site and Victory Park. As required by LBMC Chapter 21.42, the Project Applicant has prepared and submitted a Landscape Document Package, which must be approved by the City prior to the issuance of building permits and before landscaping is installed. Following landscape installation, a Certificate of Completion signed by the professional of record for the landscape and irrigation design certifying that the Project was installed per the City-approved Landscape Document Package shall be filed with Development Services. The Certificate of Completion must be deemed approved before a Certificate of Occupancy is issued. In addition, the Project would comply with the water efficient landscaping standards set forth by the State Model Water Efficient Landscape Ordinance (MWELo), as required, including filing of a conceptual MWELo Project Checklist, Water Efficient Landscape Worksheet, and Landscape Design Plan and approval of a conceptual landscape proposal demonstrating compliance with all applicable MWELo provisions. Furthermore, any on-site trees or street trees removed during Project construction would be replaced in accordance with the City's Tree Maintenance Policy, LBMC Chapter 14.28 pertaining to street trees, and other applicable City requirements.

In summary, the City has processes in place to ensure compliance with applicable LBMC requirements. The suggestion to analyze the provision of entirely low water use landscaping as a Project element and/or public access mitigation measure or to change the plant palette is noted for the record and will be forwarded to the decision makers for their review and consideration. Please also refer to Response to Comment No. 3-5 regarding the CEQA requirement to provide mitigation measures only when a significant environmental impact has been identified.⁹

Comment No. 3-18

Park Improvements

- n. 2:1 acre replacement of any displaced parkland (Open Space and Recreation Element, Program 4.5).

⁹ CEQA Guidelines 15126.4(a)(3).

The final EIR should clarify whether any portion of the site is designated as parkland that would be replaced by the development (the temporary public amenities on the site would not count unless the area were actually designated as a park). If any portion of the site is designated as parkland, the final EIR should call out the area where it is being replaced—which must be in addition to the required Victory Park dedication.

Response to Comment No. 3-18

Program 4.5 set forth in the City's Open Space and Recreation Element states the following:

Require that any conversion of parkland be replaced amenity-for-amenity and acre-for-acre at a 2:1 ratio. One acre of replacement land shall be located in the park service area where the land was converted and an additional acre of replacement land shall be located in a park service area needing parkland—as determined by the Recreation Commission.

The Project Site is designated by the City's General Plan as Land Use District (LUD) No. 7, Mixed Use District, and No. 11, Open Space and Park District. As discussed in the Initial Study, included as Appendix A of the Draft EIR, the Project involves the development of hotel and restaurant uses on the southern portion of the Project Site which is designated LUD No. 7 and improvements to the portion of Victory Park located on the northern portion of the Project Site, which is designated LUD No. 11. These proposed uses are permitted by their respective LUD designations, and the Project would not require a General Plan amendment. As such, no conversion of parkland would occur as a result of the Project.

Comment No. 3-19

- o. Consistency of all Victory Park improvements with the City's certified Victory Park Design Guidelines.

The final EIR should clarify whether the project alternatives are fully consistent with all Victory Park Design Guidelines, specifically the version of the guidelines certified by the Coastal Commission. The final EIR should specify which features may be included in the final project plans for the Victory Park portion of the property (e.g. public amenities) and which may not (e.g. utility boxes, private loading zones).

Response to Comment No. 3-19

As described in Section II, Project Description, of the Draft EIR, the Project includes a pedestrian walkway connecting the corner of Pine Avenue and Ocean Boulevard to the

existing Convention Center Walkway east of the Project Site. In addition, two existing curb cuts on Ocean Boulevard would be utilized to create a U-shaped driveway for passenger drop-off and valet service along the main entrance to the hotel. Figure II-9 in the Draft EIR provides an illustration of the Victory Park improvements, including a garden wall, terrace garden, public art, etc. Access for all delivery, trash, and other service vehicles would be provided at Seaside Way via a loading bay at the southeast corner of the Project Site.

The Site Plan Review application and design drawings filed with the City of Long Beach illustrate compliance with applicable Victory Park Design Guidelines. As shown therein, the following civil improvements are planned within the Victory Park portion of the Project Site in addition to the aforementioned pedestrian walkway and driveway: a portion of an 18-inch storm drain pipe, a below grade stormwater cistern, several traffic-related trench drains with water quality filter inserts. Public amenities to be provided in the public right-of-way include new sidewalks, curbs, and a bus stop improvement adjacent to Ocean Boulevard.

Additionally, while it is noted that CEQA does not require a policy-by-policy evaluation of Project alternatives, each of the identified Project alternatives (other than the No Project Alternative) include the same improvements to Victory Park as the Project. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 3-20

Lower Cost Accommodation

Coastal Act Section 30213 (*Lower cost visitor and recreational facilities; encouragement and provision; overnight room rentals*), encourages provision of lower cost accommodation in new development. The Commission has strongly supported the maintenance and creation of lower cost overnight accommodations in past actions statewide. The City of Long Beach has a similar policy in the certified LCP (PD-6, General Use and Development Standards, Policy j), which states: *“It shall be the goal of the City to develop a program/policy for the Downtown Shoreline area that **protects and encourages lower cost overnight visitor accommodations.**”*

Response to Comment No. 3-20

California Coast Act Section 30213 states the following:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

PD-6 Requirement (j) states the following:

Affordable Overnight Visitor Accommodations.

It shall be the goal of the City to develop a program/policy for the Downtown Shoreline area that protects and encourages lower cost overnight visitor accommodations. The purpose of the program/policy shall be to provide lower cost overnight visitor accommodations within or in close proximity to the coastal zone, including but not limited to hostel accommodations, campground accommodations, or low cost hotel or motel accommodations.

As clearly stated, the PD-6 policy cited above directs the City to develop a policy or program to protect and encourage low cost accommodations in the Downtown Shoreline area; neither that policy nor Coastal Act Section 30213 set forth a land use requirement applicable on a site- or project-specific basis. Given the Project Site's location adjacent to the Long Beach Convention & Entertainment Center, the proposed hotel uses are considered appropriate and would both complement and be compatible with the surrounding uses. The proposed uses are also consistent with a previous approval for a hotel development on the Project Site in 1999. Specifically, the proposed hotel would provide 429 hotel rooms, 23,512 square feet of restaurant space, and 26,847 square feet of meeting rooms, ballrooms, and pre-function space which could be used in tandem with events at the Convention Center. It is unlikely that low cost accommodations would be able to sustain event space such as that proposed under the Project to support the Convention Center. It is also noted that the proposed uses are consistent with both the General Plan land use designations and the zoning for the site, as discussed in detail in the Initial Study provided in Appendix A of the Draft EIR. The land use and planning analysis provided in the Initial Study further demonstrates that the Project would support various LCP and Coastal Act policies, including those set forth in Sections 30213, 30222, 30250, 30252, and 30253, among other Coastal Act provisions. Of note, the Project improvements proposed within Victory Park represent a publicly accessible open space amenity that would support the desire for public recreational opportunities stated in Coastal Act Section 30213.

Comment No. 3-21

The lack of a City-developed program or policy and the lack of proposed lower cost accommodations in the subject project description are not consistent with the LCP or with recent Coastal Commission actions to require the provision of lower cost accommodation in new development. Please analyze project alternatives that include lower cost accommodations on the project site. The City may also analyze the potential payment of an in lieu fee for provision of lower cost accommodation nearby in the coastal zone, which could mitigate for the lack of on site affordable accommodation in the development, but the LCP and recent Coastal Commission actions on new hotels in the coastal zone statewide suggest that lower cost accommodation should be provided on site.

Response to Comment No. 3-21

Please refer to Response to Comment No. 3-20. As discussed therein, neither the referenced PD-6 policy nor Coastal Act Section 30213 set forth a requirement to provide low cost accommodations on either a site- or project-specific basis.

Regarding the suggestion to analyze an alternative that includes low cost accommodations, a thorough analysis of Project alternatives is provided in Section V, Alternatives, of the Draft EIR, as required under CEQA. As discussed therein, CEQA Guidelines Section 15126.6 states:

An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible.

The CEQA Guidelines emphasize that the selection of project alternatives be based primarily on the ability to avoid or substantially lessen the significant environmental impacts of the proposed project. In addition, relative to the social and economic issue of affordable lodgings, CEQA Guidelines Section 15131 states that “[e]conomic or social effects of a project shall not be treated as significant effects on the environment,” which is supported by CEQA Guidelines Section 15064. Accordingly, alternatives that only address social and economic issues do not meet CEQA’s requirement that alternatives explore means of reducing a project’s environmental impacts. The CEQA Guidelines further direct that the range of alternatives be guided by a “rule of reason,” such that only those alternatives necessary to permit a reasoned choice are addressed. The alternatives analysis provided in the Draft EIR evaluates five separate alternatives, including four build alternatives, thus providing a reasonable range of potentially feasible alternatives based on the various land use designations and development restrictions established for the Project Site. In addition, as discussed in the alternatives analysis, several additional alternatives were considered

but rejected as infeasible. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

With respect to the suggestion that an in lieu fee be paid to provide low cost accommodations at another location, there is no such fee requirement, nor has a significant impact related to the provision of affordable accommodations been identified. Refer to Response to Comment No. 3-5 regarding the CEQA requirement to provide mitigation measures only when a significant environmental impact has been identified.¹⁰

Comment No. 3-22

In addition, please take into consideration the Coastal Commission's approval of Coastal Development Permit A-5-LOB-99-135 for a similar hotel development project proposed at this site and all related permit conditions and findings, including the required provision of a public viewing deck on the roof of the hotel.

Response to Comment No. 3-22

The City of Long Beach is familiar with Coastal Development Permit A-5-LOB-99-135, approved in 1999, for a previously proposed hotel development on the Project Site. The City will continue to refer to the Coastal Commission's approval, including all related permit conditions and findings, for context as the proposed Project moves through the entitlement process. In response to the specific reference to a public rooftop viewing deck, as discussed in Section II, Project Description, of the Draft EIR, the Project would include a restaurant, rooftop deck, and bar on Level 30 which would be open to the public. The Project would also include a publicly accessible walkway at the Ocean Boulevard level, wrapping around the building. Public access would be guaranteed through an easement or deed restriction in compliance with PD-6 requirements. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 3-23

We appreciate the opportunity to comment on the draft EIR for the project at 100 East Ocean Boulevard. Coastal Commission staff request notification of any future activity associated with these or related sites. Please feel free to contact me at (562) 590-5071 with any questions.

¹⁰ CEQA Guidelines 15126.4(a)(3).

Response to Comment No. 3-23

This comment concludes the letter and provides a point of contact. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment Letter No. 4

Adriana Raza
Customer Service Specialist
Facilities Planning Department
Sanitation Districts of Los Angeles County
1955 Workman Mill Rd.
Whittier, CA 90601-1415

Comment No. 4-1

The Sanitation Districts of Los Angeles County (Districts) received a Draft Environmental Impact Report (DEIR) for the subject project on August 13, 2019. The proposed project is located within the jurisdictional boundary of District No. 3. Previous comments submitted by the Districts in correspondence dated January 3, 2019 (copy enclosed) still apply to the subject project with the following comment and update:

1. **n. Utilities and Service Systems**, *Page VI-20*, (1) Wastewater paragraph—Table II-1, found on *Page II-8* of the subject document, lists the project as 429 hotel rooms with various amenities, a 23,512 square-foot restaurant, and 26,847 square feet of meeting rooms, ballrooms, and pre-function space. Based on the Districts' average wastewater generation factors, the expected average wastewater flow from the project, as described in the subject document, is 80,493 gallons per day of wastewater as stated in item no. 3 of the enclosed copy.

Response to Comment No. 4-1

This comment provides a correction to the average daily wastewater flow for the Project. The commenter states that the average daily wastewater flow will be 80,493 gallons per day (gpd) as opposed to 77,137 gpd as discussed in Section VI, Other CEQA Considerations, of the Draft EIR. This correction will be included in Section III, Revisions, Clarifications, and Corrections to the Draft EIR.

Comment No. 4-2

2. The Joint Water Pollution Control Plant currently processes an average flow of 261.1 million gallons per day. Adjust figures and calculations accordingly throughout the document.

Response to Comment No. 4-2

This comment provides a correction to the average daily wastewater flow processed by the Joint Water Pollution Control Plant (JWPCP) and requests corrections to the corresponding calculations. Based on this figure, the Project's average daily flow would represent 0.06 of the JWPCP's available capacity. These corrections will be included in Section III, Revisions, Clarifications, and Corrections to the Draft EIR.

Comment No. 4-3

All other information concerning Districts' facilities and sewerage service contained in the document is current. If you have any questions, please contact the undersigned at (562) 908-4288, extension 2717.

Response to Comment No. 4-3

This comment concludes the letter and provides a point of contact. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 4-4

Attachment: County Sanitation Districts of Los Angeles NOP response letter dated January 3, 2019 (2 pages)

Response to Comment No. 4-4

This attachment is a copy of the County Sanitation Districts of Los Angeles NOP response letter dated January 3, 2019. This letter was received by the City in January 2019 and was included as part of Appendix A of the Draft EIR. Specific issues raised by the commenter are addressed above in Response to Comment Nos. 4-1 and 4-2 above.

Comment Letter No. 5

William Perez
Compton Headquarters
Southern California Gas Company
701 N. Bullis Rd.
Compton, CA 90221-2253

Comment No. 5-1

*No SCG facilities in work area. That area is covered by Long Beach Gas.

Response to Comment No. 5-1

This comment, which states that there are no Southern California Gas Company facilities in the area, is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment Letter No. 6

Louise Ivers, Ph.D.
Vice President for Advocacy
Long Beach Heritage
P.O. Box 92521
Long Beach, CA 90809-2521

Comment No. 6-1

Long Beach Heritage supports the 100 East Ocean Boulevard Project, a new 537,075 square foot, 30-story hotel on the former site of the Jergins Trust Building. We are mainly concerned about the restoration of the still extant Jergins Tunnel beneath Ocean Boulevard. According to the DEIR, the applicant, 100 East Ocean Boulevard LP, plans to construct a new lobby adjacent to the tunnel with signage, salvaged artifacts, and an informative display for visitors. The applicant proposes to clean, stabilize, and make minor repairs in the tunnel which will allow tours to be conducted through the area. The applicant also plans to construct a wall at the southern end of the Jergins Tunnel which will connect with the new lobby.

Long Beach Heritage understands that the public will only be able to access the tunnel as participants of the tours and that we will be the organization leading these tours. We also approve Mitigation Measure HIS-1 which calls for a professional historic preservation consultant who meets the Secretary of the Interior's Standards to participate in the design of the new lobby and wall, as well as catalogue the character defining elements of the tunnel and provide recommendations for the restoration of the Jergins Tunnel.

Long Beach Heritage is pleased that 100 East Ocean Boulevard LP wants to clean and make minor repairs to the tunnel, which is an excellent example of a subterranean shopping arcade from the 1920s and has great historic value to the city of Long Beach.

Response to Comment No. 6-1

This comment summarizes the Project's proposed improvements to the Jergins Trust Tunnel and expresses support for the improvements and proposed mitigation. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment Letter No. 7

UNITE HERE Local 11
c/o Gideon Kracov
Attorney at Law
801 S. Grand Ave., Fl. 11
Los Angeles, CA 90017-4613

Matt Hagemann
SWAPE
2656 29th St., Ste. 201
Santa Monica, CA 90405-2984

Paul E. Rosenfeld
SWAPE
2656 29th St., Ste. 201
Santa Monica, CA 90405-2984

Comment No. 7-1

On behalf of UNITE HERE Local 11 and its members (collectively “Local 11” or “Commentors”), this Office submits the following comments¹ to the City of Long Beach (“City”) regarding the Draft Environmental Impact Report (“DEIR”)² for the 30-story, 537,075 square foot (“SF”), 429-room hotel development (“Project”) located at 100 East Ocean Boulevard (“Site”) proposed by 100 East Ocean Blvd., LP (“Applicant”). As raised herein, Local 11 is concerned with the Project’s compliance with the California Environmental Quality Act (“CEQA”),³ the California Coastal Act (“CAA”), and the Long Beach Municipal Code (“LBMC” or “Code”).

- ¹ Please note that pages cited herein are either to the page’s stated pagination (referenced herein as “p. ##”) or the page’s location in the referenced PDF document (referenced herein as “PDF p. ##”).
- ² Inclusive of the all appendices (“APP-##”). Unless otherwise specified, all documents are retrieved from City website (<http://www.longbeach.gov/lbds/planning/environmental/reports/>).
- ³ Inclusive of State CEQA Guidelines, 14 Cal. Code Regs. § 1500 *et seq.* (“CEQA Guidelines”).

Response to Comment No. 7-1

This introductory comment, which correctly summarizes the Project Description and outlines the commenter’s concerns, is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 7-2

In particular, we have serious concerns with the City's failure to consider the Project's consistency with the lower cost visitor and recreational facilities mandates under the Coastal Act and the City's Local Coastal Plan [sic] ("LCP"). So too, Local 11 is concerned that the DEIR fails to consider how this new luxury hotel will further exacerbate the Downtown Long Beach's dearth of lower cost accommodations and its disparate impact on environmental justice communities' ability to access this coastal region. While the City may be motivated to increase the City's tax revenue in the form of additional Transit Occupancy Taxes ("TOT") from yet another luxury hotel, it may not do so by failing to consider environmental justice concerns and the explicit requirements of its LCP.

Response to Comment No. 7-2

This comment introduces the commenter's concern over the Project's consistency with the Local Coastal Program. Specific issues raised by the commenter on this subject are addressed below in Response to Comment Nos. 7-10 through 7-19.

Comment No. 7-3

This comment letter includes by this reference the October 8, 2019 expert comment of SWAPE attached hereto as Exhibit A, which further identifies faults in the DEIR's analysis of the Project's air quality and greenhouse gas ("GHG") impacts under CEQA.

Response to Comment No. 7-3

This comment introduces Exhibit A of the comment letter. Specific issues raised by the commenter with respect to air quality and greenhouse gas impacts are addressed below in Response to Comment Nos. 7-39 through 7-106.

Comment No. 7-4

Because the DEIR fails to properly analyze the Project's land use inconsistency and air quality and GHG impacts, the City cannot make several of the Code-required land use findings for the Project. Commentors respectfully request that the City recirculates the DEIR to address the issues discussed herein.

Response to Comment No. 7-4

This comment states the commenter's belief that the Project's land use analysis is inadequate and requests recirculation of the Draft EIR. Specific issues raised by the commenter with respect to land use are addressed in Response to Comment Nos. 7-9

through 7-20 below. Based on the responses therein, the existing analysis is adequate and recirculation is not required.

Comment No. 7-5

I. STANDING OF COMMENTORS

Local 11 represents more than 30,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Arizona. Members of Local 11, including over 500 who work in Long Beach and many Long Beach residents, join together to fight for improved living standards and working conditions. Local 11’s members have a direct interest in seeing that the State’s environmental/coastal laws and the City’s land-use laws are being followed, and that new development does not contribute to the climate-change crisis that threatens a livable future.

Response to Comment No. 7-5

This comment summarizes the commenter’s standing. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 7-6

II. PROJECT BACKGROUND

The Project includes the demolition of the existing parking lot on the Project Site with a new 537,075-SF, 30-story, 429-room hotel with 23,512-SF of restaurant uses, 26,847-SF of meeting rooms and ballrooms and pre-function space, as well as a variety of other amenities (e.g., pool deck and bar, fitness center, executive lounge, guest laundry, and a main floor lounge) (DEIR, p. I-5–1- 6). To allow this new, luxury hotel totaling 14.32:1 floor area ratio (“FAR”), the Applicant is requesting various entitlements and approval of the Project’s EIR (collectively “Project Approvals”), for which the City *must* make numerous discretionary land use and CEQA findings, including but not limited to those listed in the below table.

Project Approval	Required Findings
Site Plan Review (“SPR”)	<ol style="list-style-type: none"> 1. The design is harmonious, consistent and complete within itself and is compatible in design, character and scale, with neighboring structures and the community in which it is located; 2. The design conforms to any applicable special design guidelines adopted by the Planning Commission or specific plan requirements, such as the design guidelines for R-3 and R-4 multifamily development, the downtown design guidelines, PD guidelines or the General Plan; 3. The design will not remove significant mature trees or street trees,

Project Approval	Required Findings
	<p>unless no alternative design is possible;</p> <ol style="list-style-type: none"> 4. There is an essential nexus between the public improvement requirements established by this ordinance and the likely impacts of the proposed development; 5. The project conforms with all requirements set forth in Chapter 21.64 (Transportation Demand Management), which requirements are summarized in Table 25-1; and 6. The approval is consistent with the green building standards for public and private development, as listed in Section 21.45.400. (See LBMC § 21.25.506.A)
Local Coastal Development Permit ("CDP")	<ol style="list-style-type: none"> 1. The proposed development conforms to the certified local coastal program including but not limited to all requirements for replacement of low and moderate-income housing; and 2. The proposed development conforms to the public access and recreation policies of Chapter 3 of the Coastal Act. This second finding applies only to development located seaward of the nearest public highway to the shoreline. (See LBMC § 21.25.904.C)
Certification of the Project's Final EIR, including environmental findings, Statement of Overriding Considerations ("SOC"), and Mitigation Monitoring Reporting Program ("MMRP").	<ol style="list-style-type: none"> 1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR; 2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency; and/or 3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR. (See CEQA Guidelines § 15091(a))

Response to Comment No. 7-6

This comment correctly summarizes the Project Description and required findings. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 7-7

Because the DEIR fails to properly analyze the Project's land use inconsistency and air quality and GHG impacts, the City cannot make several of the Code-required land use findings, including those required to grant the CDP or approve the EIR. Absent a recirculated DEIR that addresses the issues discussed herein and in the attached expert comment letter, Local 11 respectfully requests that the City stay any action on the Project Approvals.

Response to Comment No. 7-7

This comment requests recirculation of the Draft EIR and a stay on any Project approvals based on the commenter's belief that the air quality, greenhouse gas, and land use analyses are inadequate. Specific issues raised by the commenter are addressed below in Response to Comment Nos. 7-9 through 7-37 and Response to Comment Nos. 7-40 through 7-106. Based on the responses therein, the existing analysis is adequate and recirculation is not required.

Comment No. 7-8**III. THE PROJECT FAILS TO SATISFY CEQA REQUIREMENTS****A. BACKGROUND ON CEQA**

CEQA requires lead agencies to analyze the potential environmental impacts of its actions in an environmental impact report ("EIR"). See, e.g., Pub. Res. Code § 21100; *Cmtys. for a Better Env't v. S. Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310. The EIR is the very heart of CEQA. *Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652. A prejudicial abuse of discretion occurs "if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process." *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722. Courts will not blindly trust bare conclusions, bald assertions, and conclusory comments without the "disclosure of the 'analytic route the... agency traveled from evidence to action.'" *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 404 405 (quoting *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515).

Response to Comment No. 7-8

This comment, which provides background on CEQA, is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 7-9**B. CEQA REQUIRES ANALYSIS OF LAND USE INCONSISTENCY**

An EIR must identify, fully analyze, and mitigate any inconsistencies between a proposed project and the general, specific, regional, and other plans that apply to the project. See e.g., CEQA Guidelines § 15125(d); *Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1566; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 881. Here, the City determined land use impact were not an area of concern through its Initial Study ("IS") and, thus, did not warrant further analysis in the

DEIR (DEIR, pp. I-1– I-2, I-13). As such, the DEIR fails identify the Project’s inconsistency with several applicable zoning provisions, namely the Coastal Act’s and the City’s Local Coastal Plan (“LCP”) requirements concerning low cost overnight visitor accommodations.

Response to Comment No. 7-9

This comment states the commenter’s belief that the Draft EIR failed to adequately evaluate land use impacts. However, as noted in the comment, the Initial Study prepared for the Project and included as Appendix A of the Draft EIR, evaluated land use and determined impacts to be less than significant without mitigation. Specific issues raised by the commenter with respect to that land use analysis are addressed below in Response to Comment Nos. 7-10 through 7-20.

Comment No. 7-10

1. THE EIR FAILS TO ADEQUATELY ADDRESS CONFLICTS WITH THE COASTAL ACT AND LCP

During the IS public review, the California Coastal Commission (“Coastal Commission”) submitted comments requesting a detailed discussion of how the proposed project meets the various requirements under the City’s LCP, PD-6, Subarea 7 (DEIR, APP-A, Part-7, PDF pp. 12–13; see also figures below and on the following page). However, neither the IS nor the DEIR address these specific issues (see DEIR, APP-A, Part-1, PDF pp. 88–96 [IS, pp. 79–87]). Instead, the IS provides mere general descriptions of the Project and claims it would be generally consistent with relevant goals and policies under applicable plans.

Response to Comment No. 7-10

Issues raised by the California Coastal Commission are addressed in Response to Comment Nos. 3-1 through 3-23, above. Please refer to the discussion therein regarding Project compliance with applicable PD-6 standards and policies.

Comment No. 7-11

This is inadequate. The EIR must respond in “detail” how the Project complies with the specific LCP, PD-6, Subarea 7 policies listed in the below figure.

The City's Downtown Shoreline Planned Development Ordinance (PD-6) contains the relevant standards and policies of the certified LCP to which the proposed project must conform. The proposed project is located within Subarea 7 of the Downtown Shoreline Planned Development District. The standards of the certified LCP for Subarea 7 of the Downtown Shoreline Planned Development District carry out the Coastal Act requirements to protect public access to the coast and to protect visual resources, including public views toward the shoreline. Therefore, any findings regarding the project's consistency with the City of Long Beach LCP and California Coastal Act must contain a detailed discussion of how the proposed project meets the requirements laid out in certified PD-6, Subarea 7, and other LCP policies including, but not limited to:

Access.

- a. Primary vehicle access via Pine Avenue (PD-6, General Development and Use Standards, Policy b.1).
- b. Continuation of the east/west pedestrian walkway and improvement of the park strip and plazas (PD-6, General Development and Use Standards, Policy b.5 & Subarea 7, Policy e).
- c. All public walkways and viewing areas shall be guaranteed for public access through deed restrictions and/or easements (PD-6, General Development and Use Standards, Policy b.3).

* * *

Building Design.

- a. Provision of views between buildings (PD-6, General Development and Use Standards, Policy c.1).
- b. Minimum 80-foot setback from Ocean Boulevard or setback the width of the City park strip for new development (PD-6, General Development and Use Standards, Policy c.4).
- c. Provision of a northeast corner cut-off to create a cohesive entry feature to Promenade South from Pine Avenue (PD-6, Subarea 7, Policy c.1).
- d. Conformance with the conditions required in order to exceed the 250-foot height limit (PD-6, Subarea 7, Policy c.2).
- e. Payment of in-lieu fee equivalent to one-half the cost of a bridge structure across Pine Avenue (PD-6, Subarea 7, Policy c.4.G).
- f. Design of building with bird-safe treatments (PD-6, General Development and Use Standards, Policy c.5).

Parking.

- a. Consistency with requirements for off-street parking associated with new hotels (Downtown Shoreline Policy Plan, Residential Uses and Overnight Accommodations, South Side of Ocean Boulevard [Excluding Pike Area]).
- b. Enclosed and subterranean parking, unless parking blends into the façade of the rest of the building (PD-6, Subarea 7, Policy d).
- c. Consistency with certified policies of Chapter 21.41, *Off-street Parking and Loading Requirements*, of the City of Long Beach Zoning Code.

Landscaping.

- a. Consistency with certified policies of Chapter 21.42, *Landscaping Requirements*, of the City of Long Beach Zoning Code.

Park Improvements.

- a. 2.1 acre replacement of any displaced parkland (Open Space and Recreation Element, Program 4.5).
- b. Consistency of all Victory Park improvements with the City's certified Victory Park Design Guidelines.

Response to Comment No. 7-11

Issues raised by the California Coastal Commission are addressed in Response to Comment Nos. 3-1 through 3-23, above. Please refer to the discussion therein regarding Project compliance with applicable PD-6 standards and policies.

Comment No. 7-12

So too, the Coastal Commission raised significant concerns regarding the Project's lack of lower cost overnight accommodations, and the City's failure to develop a program/policy on this issue (see excerpt below).

In addition, please take into consideration the Coastal Commission's approval of Coastal Development Permit A-5-LOB-99-135 for a similar hotel development project proposed at this site and all related permit conditions and findings, including the required provision of a public viewing deck on the roof of the hotel. Furthermore, in accordance with Section 30213 of the Coastal Act (*Lower cost visitor and recreational facilities; encouragement and provision; overnight room rentals*), the Commission has strongly supported the maintenance and creation of lower cost overnight accommodations in past actions. The City of Long Beach has a similar policy in the certified LCP (PD-6, General Use and Development Standards, Policy j), which states: "*It shall be the goal of the City to develop a program/policy for the Downtown Shoreline area that **protects and encourages lower cost overnight visitor accommodations.***" The lack of a City-developed program or policy and the lack of proposed lower cost accommodations in the subject project description are of concern to Coastal Commission staff. Please consider project alternatives that include lower cost accommodations.

Response to Comment No. 7-12

Issues raised by the California Coastal Commission are addressed in Response to Comment Nos. 3-1 through 3-23, above. Please refer to the discussion therein regarding Project compliance with applicable PD-6 standards and policies.

Comment No. 7-13

Yet, neither the IS nor the DEIR address the issue of lower cost overnight accommodations, nor does the DEIR consider an alternative including lower cost overnight accommodations. At most, the DEIR identifies a variety of rooms (i.e., 171 king rooms, 152 double queens, 76 suites, and 30 penthouses) (DEIR, p. I-5). Yet, there is no discussion given to whether these rooms will provide low cost overnight opportunities (unlikely), whether it is feasible to do so, or whether the City will consider in-lieu fees (which has been done before in other City projects).⁴ This lack of information has been grounds for the Coastal Commission to find substantial conflicts under Section 30213 of the Coastal Act,⁵ which provides "[l]ower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred." Pub. Res. Code § 30213.

- ⁴ Coastal Commission (10/26/16) Staff Report: Public Workshop: Lower Cost Visitor Serving Accommodations, p. 37, <https://documents.coastal.ca.gov/reports/2016/11/th6-11-2016.pdf>.
- ⁵ See e.g., Coastal Commission (7/13/18) Staff Report: 34344 Street of the Green Lantern, City of Dana Point, Orange County, APN No. 672-232-06, pp. 1, 11–13 (Finding a substantial issue where city approved 100-room resort hotel without addressing or include low cost overnight opportunities as required under Section 30213 of the Coastal Act), <https://documents.coastal.ca.gov/reports/2019/9/W25c/W25c-9-2019-report.pdf>; Coastal Commission (11/2/16) Staff Report: Redondo Beach Waterfront, LLC and City of Redondo Beach, A- 5-RDB-16-0092, pp. 17–18 (Finding a substantial issue where city approved a 4-star, 120 room boutique hotel with projected rates of approximately \$250 per night on the oceanfront would not provide lower cost overnight accommodations, and the city failed to provide feasibility study or require in-lieu fees), <https://documents.coastal.ca.gov/reports/2017/5/f15a/f15a-5-2017-report.pdf>; *San Diego Unified Port Dist. v. California Coastal Com.* (2018) 27 Cal.App.5th 1111, 1142 (where Commission denied certification of an amendment of a port master plan that would allow the construction of a 175-room hotel, the Fourth District found “...it is within Commission’s broad authority to apply its expertise and devise solutions to promote the policy of providing ‘lower cost visitor... facilities,’ including by specifying overnight accommodations that are the ‘type of development... designed in such a manner to be intrinsically lower cost,’ in District’s master plan.”).

Response to Comment No. 7-13

Issues raised by the California Coastal Commission are addressed in Response to Comment Nos. 3-1 through 3-23, above. Please refer to the discussion therein regarding Project compliance with applicable PD-6 standards and policies.

In particular, as discussed in Response to Comment No. 3-20, California Coast Act Section 30213 calls for low cost visitor and recreational facilities to be protected, encouraged, and, *where feasible*, provided [emphasis added]. Furthermore, LCP PD-6 Requirement (j) directs the City to develop a policy or program to protect and encourage low cost accommodations in the Downtown Shoreline area; neither that policy nor Coastal Act Section 30213 set forth a land use requirement applicable on a site- or project-specific basis. Given the Project Site’s location adjacent to the Long Beach Convention & Entertainment Center, the proposed hotel uses are considered appropriate and would both complement and be compatible with the surrounding uses. The proposed uses are also consistent with a previous approval for a hotel development on the Project Site in 1999. It is unlikely that low cost accommodations would be able to sustain event space such as that proposed under the Project to support the Convention Center (i.e., 26,847 square feet of meeting rooms, ballrooms, and pre-function space which could be used in tandem with events at the Convention Center). It is also noted that the proposed uses are consistent with both the General Plan land use designations and the zoning for the site, as discussed in detail in the Initial Study provided in Appendix A of the Draft EIR. The land use and planning analysis provided in the Initial Study further demonstrates that the Project would support various LCP and Coastal Act policies, including those set forth in Sections 30213, 30222, 30250, 30252, and 30253, among other Coastal Act provisions. Of note, the Project improvements proposed within Victory Park represent a publicly accessible open

space amenity that would support the desire for public recreational opportunities stated in Coastal Act Section 30213.

Comment No. 7-14

So too, the IS and DEIR fail to place this luxury hotel Project in the appropriate context of the area's desperate need for greater low cost overnight accommodations. Since 1989, the California coast has lost 24,720 economy hotel rooms, more than twice the number of non-economy rooms, and roughly 70 percent of all rooms that have been lost during that period.⁶ This has resulted in coastal cities having as little as five percent lower cost hotel rooms, with the remaining 95 percent higher cost.⁷

⁶ Coastal Commission (10/26/16), *supra* fn. 4, p. 17.

⁷ *Ibid.*, p. 2.

Response to Comment No. 7-14

Issues raised by the California Coastal Commission are addressed in Response to Comment Nos. 3-1 through 3-23, above. Please refer to the discussion therein regarding Project compliance with applicable PD-6 standards and policies. It is noted that the Project would not remove or otherwise affect any existing or planned low cost accommodations.

Comment No. 7-15

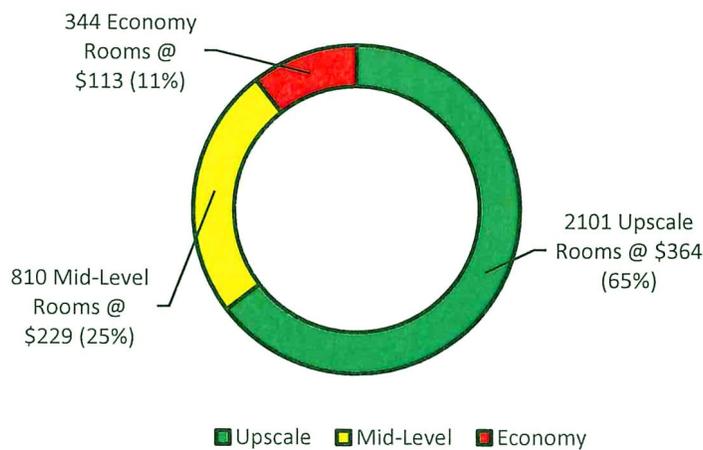
According to recently published data from the Downtown Long Beach Alliance,⁸ Downtown Long Beach contains a total 3,255 hotel rooms, of which 2,101 rooms or 65 percent are upscale at an average rate of \$364; 810 rooms (25 percent) are mid-level at an average rate of \$229; and a mere 344 rooms (11 percent) are economy at an average rate of \$113 (as reflected in the table and chart on the following page).

Hotel	# Rooms	Average Rate
Upscale	2101	364
<i>Hilton Long Beach</i>	397	348
<i>Hyatt Regency Long Beach</i>	528	407
<i>Hyatt The Pike Hotel</i>	138	414
<i>Renaissance Long Beach Hotel</i>	374	351
<i>Westin Long Beach</i>	469	339
<i>Hotel Maya</i>	195	325

Hotel	# Rooms	Average Rate
Mid-Level	810	229
<i>Best Western</i>	66	279
<i>Courtyard Marriott</i>	216	269
<i>Hotel Queen Mary</i>	315	189
<i>Residence Inn</i>	178	243
<i>Varden Boutique Hotel</i>	35	165
Economy	344	113
<i>Beach Inn Motel</i>	25	95
<i>City Center Motel</i>	49	80
<i>Greenleaf Hotel</i>	45	90
<i>Inn of Long beach</i>	51	99
<i>Rodway Inn</i>	35	165
<i>Travel King Motor Inn</i>	15	N/A
<i>Travelodge</i>	63	144
<i>Vagabond Inn Long Beach</i>	61	116

Downtown Long Beach Hotel

Accommodations [sic]



⁸ Downtown Long Beach Alliance, 2019 Economic Profile, PDF p. 38, https://downtownlongbeach.org/wp-content/uploads/DLBA_Economic-Profile-2019-Single-150dpi.pdf.

Response to Comment No. 7-15

Issues raised by the California Coastal Commission are addressed in Response to Comment Nos. 3-1 through 3-23, above. Please refer to the discussion therein regarding Project compliance with applicable PD-6 standards and policies. The information regarding

hotel room costs in the Downtown area, as presented in the comment, is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 7-16

As the chart above shows, there is a glaring disparity between economy and mid/high-end hotel options in Downtown Long Beach, which has a disparate impact on those with less means to access this coastal area. Additionally, as noted by the Coastal Commission, even economy hotels are unaffordable for the vast majority of Californians, which disproportionately impacts lower income visitors and limit their ability to access and recreate along the coast.⁹ For this reason, low cost overnight accommodation mandates under Coastal Act Section 30213 also serves to promote environmental justice—“The Coastal Act’s requirement to maximize access and promote lower cost visitor and recreational facilities is *critical in providing opportunities for individuals and families from underserved communities to visit the coast* when they might not be able to do so otherwise due to costs, including the lack of affordable lodging.”¹⁰ (Emphasis added). Hence, when acting on a coastal development permit, the Coastal Commission “may consider environmental justice, or the equitable distribution of environmental benefits throughout the state” (Pub. Resources Code § 30604)—particularly when acting in its appellate capacity where local governments ignore policies that implement environmental justice principles.¹¹

⁹ Coastal Commission (10/26/16), supra fn. 4, p. 24

¹⁰ Ibid., p. 8.

¹¹ Coastal Commission (3/8/19) California Coastal Commission Environmental Justice Policy, p. 7 (“Where a local government fails to consider environmental justice when evaluating a proposed development that has the potential to adversely or disproportionately affect a historically disadvantaged group’s ability to reach and enjoy the coast, that failure may be the basis for an appeal to the Coastal Commission. Similarly, where a local coastal program includes policies that implement environmental justice principles, a local government’s failure to consider those principles may also be the basis of an appeal to the Coastal Commission.”), https://documents.coastal.ca.gov/assets/env-justice/CCC_EJ_Policy_FINAL.pdf.

Response to Comment No. 7-16

Issues raised by the California Coastal Commission are addressed in Response to Comment Nos. 3-1 through 3-23, above. Please refer to the discussion therein regarding Project compliance with applicable PD-6 standards and policies. Also refer to Response to Comment No. 7-13 above.

Comment No. 7-17

Here, the Project is subject to the City’s LCP, PD-6 General Development and Use Standard “j” that provides:

“Affordable Overnight Visitor Accommodations. It shall be the goal of the City to develop a program/policy for the Downtown Shoreline area that protects and encourages lower cost overnight visitor accommodations. The purpose of the program/policy shall be to provide lower cost overnight visitor accommodations within or in close proximity to the coastal zone, including but not limited to hostel accommodations, campground accommodations, or low-cost hotel or motel accommodations.”¹²

Because this mirrors the objectives under Section 30213, which as discussed above serve the principles of environmental justice, it is necessary to consider this Project’s impacts on environmental justice grounds—something which the IS and DEIR completely fails to do.

¹² Ord. 11-2017, pp. 14–15, <http://www.longbeach.gov/globalassets/lbds/media-library/documents/planning/current/zoning-ordinances/pd-6-adopted-2011-08-16-with-better-maps>.

Response to Comment No. 7-17

Issues raised by the California Coastal Commission are addressed in Response to Comment Nos. 3-1 through 3-23, above. Please refer to the discussion therein regarding Project compliance with applicable PD-6 standards and policies. Also refer to Response to Comment No. 7-13 above.

Comment No. 7-18

Here, we have serious concerns with the City’s failure to consider the Project’s consistency with the lower cost visitor and recreational facilities mandates under Section 30213 and the City’s LCP. So too, Local 11 is concerned with the DEIR’s failure to consider how this new luxury hotel Project will further exacerbate the Downtown Long Beach’s dearth of lower cost accommodations and its disparate impact on environmental justice communities’ ability to access this coastal region.

While the City may be motivated to increase the City’s tax revenue in the form of additional Transit Occupancy Taxes (“TOT”) from yet another luxury hotel,¹³ it may not do so by failing to consider environmental justice concerns and the explicit requirements under its LCP,¹⁴ especially when full TOT funds may not materialize for 20 years under a deferred TOT plan amounting to a \$28 million subsidy from the City to the Applicant.¹⁵ As warned by the Coastal Commission, the City cannot ignore its Coastal Act obligations in the face of “strong financial incentive” to increase TOT revenue.¹⁶

¹³ Coastal Commission (10/26/16), *supra* fn. 4, p. 20 (noting a 42 percent increase in City TOT taxes between 2005–2015).

¹⁴ *Supra* fn. 11.

¹⁵ Coastal Commission (10/26/16), *supra* fn. 4, p. 21 (“For example, in 2016, the City of Long Beach considered a TOT sharing agreement between the City and a developer for a new hotel project.”); see also City (12/12/17) Economic Development Subsidy Report, p. 1-2 (“The economic development subsidy is equal to up to eighty percent (80%) of the transient occupancy tax revenue received by the City from the American Life owned hotel property. The estimated total subsidy of up to eighty percent (80%) of the transient occupancy tax revenue received by the City for up to 20 years is \$28 million.”), <http://www.longbeach.gov/globalassets/economic-development/media-library/documents/resources/americanlife-subsidy-report53083-posting-12-12-17>.

¹⁶ Coastal Commission (10/26/16), *supra* fn. 4, p. 20.

Response to Comment No. 7-18

Issues raised by the California Coastal Commission are addressed in Response to Comment Nos. 3-1 through 3-23, above. Please refer to the discussion therein regarding Project compliance with applicable PD-6 standards and policies. Also refer to Response to Comment No. 7-13 above. Additionally, issues related to tax revenues are not subject to evaluation under CEQA.

Comment No. 7-19

Here, the DEIR fails to provide any meaningful discussion of the Project’s consistency with Section 30213 or the LCP Measure “j” low cost visitor and recreational facility mandates. The DEIR must be recirculated to address this issue and to consider feasible mitigation measures and alternatives, includes those recommended by the Coastal Commission,¹⁷ such as:

- Requiring the Project to provide an adequate share of lower cost overnight accommodations, such as 25 percent of its proposed 429 rooms; and
- If lower cost units cannot be provided as part of the Project, as demonstrated with substantial evidence, require in-lieu fees that are adequate to cover the cost of developing those units elsewhere near the Project Site.

¹⁷ *Ibid.*, pp. 2–3, 24, 26, 30–31, 35–41.

Response to Comment No. 7-19

Issues raised by the California Coastal Commission are addressed in Response to Comment Nos. 3-1 through 3-23, above. Please refer to the discussion therein regarding Project compliance with applicable PD-6 standards and policies. Also refer to Response to Comment No. 7-13 above.

With respect to the suggestion that an in lieu fee be paid to provide low cost accommodations at another location, as discussed in Response to Comment No. 3-21,

there is no such fee requirement, nor has a significant impact related to the provision of affordable accommodations been identified. Refer to Response to Comment No. 3-5 regarding the CEQA requirement to provide mitigation measures only when a significant environmental impact has been identified.¹¹

Comment No. 7-20

2. THE DEIR FAILS TO ADEQUATELY ADDRESS CONFLICTS WITH THE DOWNTOWN PLAN

Here, the Project appears to conflict with the City's FAR/incentive structure under the Downtown Plan. Under the City's proposed Land Use Update,¹⁸ the Project Site falls within the Waterfront area directly south of the Downtown Plan area. As compared to the rest of the City, the recently adopted Downtown Plan concentrates the tallest and most dense allowed development (i.e., FAR) along Ocean Blvd.¹⁹ Under the Downtown Plan, the most liberal base zoning allows 240- feet/8.0 FAR with the possibility of 500-feet/11.0 FAR if a proposed development includes various features (e.g., LEED certification, green/eco-roofs, renewable energy, open space "in excess of required open space standards", rehabilitation of historic buildings, and affordable housing components).²⁰ Here, while the Project does include some of these features (e.g., LEED Silver certification, rehabbing Jergins Tunnel), the Applicant is not installing solar panels on the Project's roof,²¹ or providing affordable housing or low cost accommodations, nor do the improvements to Victory Park considered "in excess" of open space requirements given the LCP requires the space to remain open for pedestrian use.²² Hence, it would appear that the Project will exceed FAR incentives allowed by the City without satisfying the City's incentive requirements. If approved, this Project will likely be cited by future project proponents to justify development more than the 11:1 FAR limit and without satisfying the City's carefully crafted incentive structure.

Therefore, the DEIR must explain how this Project's proposed 14.32:1 FAR is compatible with and in keeping with the City's downtown plans. Additionally, the Project fails to discuss consistency with helipad requirements. The Downtown Plan provides that helipads must be integrated to support the larger design idea and meet necessary code requirements.²³ However, the DEIR fails to mention anything regarding a helipad, and none of the Project renderings show a helipad incorporated into the building. So too this must be explained in the DEIR.

¹⁸ City (Nov. 2017) Draft 2040 Land Use Element, p. 65 (Tbl. LU-3), <http://www.longbeach.gov/globalassets/city-news/media-library/documents/lue/june-2019/lue-draft-presented-to-pc-on-12-11-17-and-council-on-3-6-18>; see also City (rev. Mar. 2018) Council District 2, Draft 2040 PlaceType and Height Map,

¹¹ *CEQA Guidelines 15126.4(a)(3)*.

<http://www.longbeach.gov/globalassets/city-news/media-library/documents/lue/march-2018-district-maps/2040-landuse-height---cd2>.

- ¹⁹ City (Jan. 2012) Downtown Plan, pp. 46–49, http://www.longbeach.gov/globalassets/lbds/media-library/documents/planning/advance/downtown/downtownplan_section-3-part-2-reduced.
- ²⁰ Ibid.
- ²¹ While the Project may be considered solar-ready (DEIR, p. IV.C-55), the Project is not required to install solar panels to offset the Project’s energy needs.
- ²² LCP, PDF p. 112, <http://www.longbeach.gov/globalassets/lbds/media-library/documents/planning/advance/general-plan/local-coastal-program>.
- ²³ Downtown Plan (Jan. 2012) p. 84, http://www.longbeach.gov/globalassets/lbds/media-library/documents/planning/advance/downtown/downtownplan_section-4-reduced.

Response to Comment No. 7-20

Following submission of the commenter’s letter on October 7, 2019, the Long Beach City Council adopted an updated Land Use Element, and new PlaceTypes and Height Standards were approved by Resolution 19-0189 on December 3, 2019.¹² As correctly identified in the comment above, the Project Site is now identified as located within the Waterfront (WF) PlaceType, directly south of the Downtown (DT) PlaceType and the associated Downtown Plan area. The Project Site is not located within the Downtown PlaceType nor is it subject to the Downtown Plan. (In fact, the City’s adopted PlaceTypes and Height Standards map identifies the Project Site as located within a 425-foot height zone, with which the proposed 375.5-foot hotel would comply.) Furthermore, since the underlying zoning for the Project Site did not change, the Project remains subject to PD-6 requirements. The new WF PlaceType defers to the existing PD zoning; see, specifically, Land Use Element Table LU-6: PlaceTypes and Zoning Districts Consistency Matrix, which indicates that Planned Development (PD) zoning is consistent with the Waterfront PlaceType.

In any event, since the Project pre-dates the December 2019 Land Use Element approval, it can be reviewed according to the previous Land Use Element; refer to the land use analysis provided in the Initial Study in Appendix A of the Draft EIR.

¹² *City of Long Beach General Plan Land Use Element*, available at www.longbeach.gov/globalassets/lbds/media-library/documents/planning/advance/lueude/land-use-element-final-adopted-december-2019; and *Long Beach 2040 PlaceType Uses and Height, Map 5*, available at www.longbeach.gov/globalassets/lbds/media-library/documents/planning/maps/land-use-maps/lb2040_mapbook_page_5, both accessed February 12, 2020.

Comment No. 7-21**E. [sic] THE DEIR'S AIR QUALITY ANALYSIS IS FAULTY**

Air quality impacts and their concomitant impacts on human health must be studied in CEQA documents. See *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1220 (quoting CEQA Guidelines § 15126.2(a)). Here, as pointed out by environmental experts SWAPE comments (attached hereto as Exhibit A), the DEIR fails to adequately evaluate the Project's air quality and health risk impacts.

Response to Comment No. 7-21

This comment reiterates the commenter's belief that the Project's air quality analysis is inadequate. Specific issues raised by the commenter are addressed below in Response to Comment Nos. 7-22 through 7-28 and in Response to Comment Nos. 7-40 through 7-73.

Comment No. 7-22

As discussed therein, the DEIR's air impact analysis:

- Relied on Outdated Guidance and completely failed to mention mobile source Carbon Monoxide ("CO") hot spot analysis.

Response to Comment No. 7-22

This comment summarizes Comment Nos. 7-40 through 7-42. Please refer to Response to Comment Nos. 7-40 through 7-42.

Comment No. 7-23

- Relied on a Localized Significance Threshold ("LST") analysis using incorrect sensitive receptor distances.

Response to Comment No. 7-23

This comment summarizes Comment No. 7-44. Please refer to Response to Comment No. 7-44.

Comment No. 7-24

- Utilized an air emissions modeling that relied on numerous unsubstantiated input parameters (e.g., land uses, construction equipment and usages, mitigation measures not accounted for, incorrect length and number of vendor/hauling/

worker trips, vehicle emission factors and fleet mixes, changed Title-24 electricity energy intensity factors, etc.).

Response to Comment No. 7-24

This comment summarizes Comment Nos. 7-45 through 7-58. Please refer to Response to Comment Nos. 7-45 through 7-58.

Comment No. 7-25

- When corrected, the environmental experts find the Project's construction-related VOC and NO_x emissions increase significantly, and exceed applicable South Coast AQMD thresholds.

Response to Comment No. 7-25

This comment summarizes Comment No. 7-59. Please refer to Response to Comment No. 7-59.

Comment No. 7-26

- The Project failed to prepare a construction or operational health risk assessment despite nearby sensitive receptors.

Response to Comment No. 7-26

This comment summarizes Comment No. 7-60. Please refer to Response to Comment No. 7-60.

Comment No. 7-27

- When performing a screening-level risk assessment on the Project, the experts find the adult, child, infant, and lifetime cancer risks all exceed the SCAQMD's threshold of 10 in one million for both the closest receptor and the other affected populations, thus, resulting in a potentially significant impact not previously addressed or identified by the DEIR.

Response to Comment No. 7-27

This comment summarizes Comment Nos. 7-64 through 7-73. Please refer to Response to Comment Nos. 7-64 through 7-73.

Comment No. 7-28

Because the DEIR fails to conduct an adequate air quality analysis, the DEIR incorrectly concludes that the Project would not cause any significant impacts and, thus, avoids additional feasible mitigation measures or meaningful project alternatives. For this reason, the DEIR must be recirculated to address the issues identified in the expert comment letter.

Response to Comment No. 7-28

This comment maintains that the Draft EIR fails to adequately evaluate and mitigate the Project's air quality and GHG impacts. As demonstrated by the responses to comments below, including responses to the SWAPE-prepared screening HRA, the Draft EIR has been prepared in accordance with CEQA, and the Project will not result in any significant air quality or GHG impacts from criteria, air toxic, and GHG emissions. As discussed in Response to Comment No. 7-60, potential Project-related health risk impacts from combined construction and operational activities would fall below the SCAQMD significance threshold. Therefore, the Draft EIR's conclusions are correct.

Comment No. 7-29**F. [sic] GREENHOUSE GAS IMPACTS ARE IMPROPERLY ANALYZED**

The California Supreme Court demands robust GHG analysis to assess a project's impact on climate change. Lead agencies must provide "the contours of their logical argument," leaving no "analytical gaps" in their analysis, and supporting determinations "through substantial evidence and reasoned explanation." *Center for Biological Diversity v. Cal. Dept. of Fish and Wildlife* ("Newhall Ranch") (2015) 62 Cal.4th 204, 227; see also *Cleveland II*, 3 Cal.5th at 519 (analysis must be "based to the extent possible on scientific and factual data... stay[ing] in step with evolving scientific knowledge and state regulatory schemes.") (quoting CEQA Guidelines § 15064(b)). Here, as pointed out by environmental experts SWAPE comments (attached hereto as Exhibit A), the DEIR fails to adequately evaluate the Project's GHG impacts.

Response to Comment No. 7-29

This comment reiterates the commenter's belief that the Project's greenhouse gas analysis is inadequate. Specific issues raised by the commenter are addressed below in Response to Comment Nos. 7-30 through 7-37 and in Response to Comment Nos. 7-74 through 7-106.

Comment No. 7-30

As discussed therein, the DEIR fails to adequately evaluate the Project's GHG impacts because:

- It relies solely on a qualitative analysis (i.e., consistency with the California Air Resources Board ("CARB") AB 32 Scoping Plan and the Southern California Association of Governments ("SCAG") Regional Transportation Plan/Sustainable Community Strategies ("RTP/SCS"))—which contain no binding, Project-specific requirements necessary under the CEQA Guidelines.

Response to Comment No. 7-30

This comment summarizes Comment No. 7-75 through 7-80. Please refer to Response to Comment Nos. 7-75 through 7-80.

Comment No. 7-31

- The DEIR's qualitative analysis fails to identify Project inconsistencies with CARB's 2017 Scoping Plan and SCAG RTP/SCS.

Response to Comment No. 7-31

This comment summarizes Comment No. 7-88. Please refer to Response to Comment No. 7-88.

Comment No. 7-32

- Relies on the City of Long Beach's Sustainable City Action Plan which does not provide goals beyond 2020.

Response to Comment No. 7-32

This comment summarizes Comment No. 7-85. Please refer to Response to Comment No. 7-85.

Comment No. 7-33

- The DEIR incorrectly credits the Project for GHG reductions from statewide regulatory programs having nothing to with the Project, which circumvents the Project's requirement to provide additional GHG reductions necessary for newer land use developments.

Response to Comment No. 7-33

This comment summarizes Comment No. 7-93. Please refer to Response to Comment No. 7-93.

Comment No. 7-34

- Notwithstanding the DEIR's use of incorrect and unsubstantiated parameters in its qualitative analysis that underestimates the Project's GHG emissions, the DEIR nevertheless demonstrates the Project exceeds numeric bright-line and efficiency thresholds—some of which are proposed and even used by the City for other hotel projects.

Response to Comment No. 7-34

This comment summarizes Comment No. 7-95. Please refer to Response to Comment No. 7-95.

Comment No. 7-35

- When performing a correct qualitative analysis of the Project's GHG emissions, the Project would greatly exceed applicable bright-line and efficiency thresholds, thus, resulting in a significant impact that was not previously identified or addressed by the DEIR.

Response to Comment No. 7-35

This comment summarizes Comment No. 7-96 through 7-103. Please refer to Response to Comment Nos. 7-96 through 7-103.

Comment No. 7-36

- The DEIR failed to apply South Coast AQMD's bright-line (Tier 3) and efficiency (Tier 4) thresholds to Project emissions, which is inconsistent with evolving scientific knowledge and regulatory schemes as made evident by the actions taken by other air districts and even the City in prior hotel CEQA reviews.

Response to Comment No. 7-36

This comment summarizes Comment No. 7-106. Please refer to Response to Comment No. 7-106.

Comment No. 7-37

Because the DEIR fails to conduct an adequate GHG analysis, the DEIR incorrectly concludes that the Project would not cause any significant impacts and, thus, avoids additional feasible mitigation measures or meaningful project alternatives. For this reason, the DEIR must be recirculated to address the issues identified in the expert comment letter.

Response to Comment No. 7-37

This comment summarizes Comment No. 7-107. Please refer to Response to Comment No. 7-107.

Comment No. 7-38**IV. CONCLUSION**

Local 11 appreciates the opportunity to provide these comments. Local 11 works to make the City of Long Beach a place of opportunity for all—a place where its members can work and afford to live. Here, the DEIR is fundamentally flawed because it fails to properly analyze the Project’s land use, air quality, and GHG impacts, or provide an adequate alternative with low cost accomodation. [sic] Because the DEIR fails to properly analyze the Project’s land use inconsistency and air quality and GHG impacts, the City cannot make several of the Code-required land use findings for the Project.

Response to Comment No. 7-38

This comment concludes the letter and reiterates the request to recirculate the Draft EIR based on the commenter’s belief that its air quality, greenhouse gas, and land use impact analyses are inadequate. Specific issues raised by the commenter are addressed in Response to Comment Nos. 7-9 through 7-37 above and Response to Comment Nos. 7-40 through 7-106 below. Based on the responses therein, the existing analysis is adequate and recirculation is not required.

Comment No. 7-39

Attachment: Exhibit A—SWAPE comment letter dated October 7, 2019

We have reviewed the August 2019 Draft Environmental Impact Report (“DEIR”) for the 100 East Ocean Project (“Project”) located in the City of Long Beach (“City”). The Project proposes to construct a 537,075 square foot hotel with 429 rooms, 23,512 square feet of restaurant use, 26,847 square feet of meeting rooms, ballrooms, and pre-function space,

11,288 square feet of pool deck and bar space, and 151 parking spaces on the 1.36-acre site.

Our review concludes that the DEIR fails to adequately evaluate the Project's Air Quality, Health Risk, and Greenhouse Gas impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project are underestimated and inadequately addressed. An updated DEIR should be prepared to adequately assess and mitigate the potential air quality and health risk impacts that the project may have on the surrounding environment.

Response to Comment No. 7-39

This comment introduces Exhibit A and states the commenter's belief that the Draft EIR fails to adequately evaluate the Project's air quality, health risk, and greenhouse gas impacts. Specific issues raised by the commenter are addressed below in Response to Comment Nos. 7-40 through 7-106.

Comment No. 7-40

Air Quality

Reliance on Outdated Guidance

Review of the DEIR demonstrates that the DEIR relies on the Southern California Air Quality Management District's ("SCAQMD") 2003 Air Quality Management Plan ("AQMP") to determine that a Carbon Monoxide ("CO") hot spot analysis is not necessary (p. IV.A-26). However, this is incorrect, as the 2003 AQMP is outdated.

Response to Comment No. 7-40

While the 2016 Air Quality Management Plan (AQMP) is the most current plan providing guidance related to particulate matter and ozone, that document does not address carbon monoxide (CO) in the same manner. The SCAQMD's 2003 AQMP provides the attainment demonstration for CO (i.e., an analysis demonstrating attainment of the federal CO standards and the basis for a maintenance plan for CO in the future). Thus, the Draft EIR correctly uses information provided in SCAQMD's 2003 AQMP for purposes of the Project-level analysis of CO hot spots.

Comment No. 7-41

The DEIR attempts to justify the omission of a CO hot spot analysis by stating,

“Potential localized CO concentration from induced traffic at nearby intersections are also addressed consistent with the methodologies and assumptions used in the consistency analysis provided in the 2003 AQMP” (p. IV.A-26).

However, this is entirely incorrect, as the SCAQMD has adopted several, more recent AQMPs, including the 2007 AQMP, the 2012 AQMP, and the 2016 AQMP. The DEIR acknowledges this, stating that “[t]he 2016 AQMP, which was released in March 2017, incorporates the latest scientific and technological information and planning assumptions” (p. IV.A-10). Without providing any sort of justification for choosing the 2003 AQMP, the DEIR relies on outdated guidance to determine that a CO hotspot analysis is not necessary. In order to determine this, the DEIR should have used the most recent guidance, the 2016 AQMP, or provided justification for why the 2003 AQMP is more applicable. Therefore, in order to demonstrate consistency with the applicable guidelines and analyses, the DEIR should have analyzed the Project under 2016 AQMP guidelines, justified the use of the 2003 AQMP, or simply conducted a CO hotspot analysis for the Project.

Response to Comment No. 7-41

As discussed above in Response to Comment No. 7-41, the more recent adopted AQMPs are not relevant to the analysis of CO since the subsequent AQMPs focus on particulate matter and ozone. The SCAQMD’s 2003 AQMP provides the attainment demonstration for CO (i.e., analysis demonstrating attainment of the federal CO standards and basis for a maintenance plan for CO for the future). Thus, the Draft EIR correctly evaluated potential localized CO concentrations from induced traffic at nearby intersections consistent with the methodologies and assumptions used in the attainment demonstration provided in the 2003 AQMP. Specifically, SCAQMD’s 2003 AQMP estimated that the 1-hour concentration for the most impacted intersection in the Air Basin was 4.6 ppm, which indicated that the most stringent 1-hour CO standard (20.0 ppm) would likely not be exceeded until the daily traffic at the intersection exceeded more than 400,000 vehicles per day. If a project intersection does not exceed 400,000 vehicles per day, then the project does not need to prepare a detailed CO hot spot analysis using California LINE Source Dispersion Model, version 4 (CALINE4), which is a model used to assess air quality impacts near transportation facilities (i.e., roadways, intersections, street canyons, and parking facilities).

Comment No. 7-42

Furthermore, regarding the determination that the Project’s localized mobile source CO emissions are less than significant, the DEIR states that “[t]he supporting data for this analysis is included in Appendix B of this Draft EIR” (p. IV.A-39). However, review of

Appendix B reveals that the DEIR completely fails to mention mobile source CO emissions. As a result, the mobile source CO emission analysis cannot be verified, and the omission of a CO hot spot analysis is unsubstantiated. An updated DEIR should be prepared to adequately assess the impacts of the Project's CO emissions on the surrounding environment.

Response to Comment No. 7-42

As discussed on page IV.A-38 of Section IV.A, Air Quality, of the Draft EIR, the highest number of average daily trips at a nearby intersection would be approximately 46,000 at the Alamitos Avenue and Ocean Boulevard intersection, which is significantly below the 400,000 daily traffic volume that would be expected to generate CO exceedances as evaluated in the 2003 AQMP. This data is readily available in Table 7, Open Year (2022) Plus Project Conditions, of Appendix E of the Draft EIR, which could have been referenced to verify the results. However, this comment correctly identifies that Appendix B inadvertently does not include the intersection volumes. In response to this comment, the intersection volumes have been provided in a Revised Draft EIR Appendix B (Air Quality Appendix). Please refer to Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR. No additional analysis or mitigation measures are necessary based on this comment.

Comment No. 7-43

Use of Incorrect Localized Significance Thresholds

Review of the DEIR demonstrates that Project emissions were evaluated using a Localized Significance Threshold ("LST") analysis. The DEIR states that,

"The localized effects from the on-site portion of daily emissions were evaluated at sensitive receptor locations potentially impacted by the Project according to the SCAQMD's localized significance thresholds (LST) methodology, which uses on-site mass emissions rate look-up tables and Project-specific modeling, where appropriate" (p. IV.A-24–IV.A-25).

Furthermore, the DEIR states that,

"The nearest sensitive receptors to Project construction activities are residential uses located west of the site (approximately 450 feet or roughly 150 meters). However, this analysis conservatively assumes an approximately 100-meter or 328-foot receptor distance (p. I-20).

Response to Comment No. 7-43

This comment, which correctly summarizes information provided in Section IV.A, Air Quality of the Draft EIR, is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 7-44

However, this is incorrect, as there are closer sensitive receptors to the Project site (see excerpt below) (Table III-1, p. III-6).

**Table III-1
List of Related Projects**

Map No.	Project Location	Project Description	Use	Size
1	1628–1724 E. Ocean Blvd.	Add 51-unit condominium to a 47-unit motel.	Condominiums	51 du
2	245 W. Broadway	New mixed-use project on 1.7-acre site.	Residential	219 du
			Retail	6,000 sf
3	2010 Ocean Blvd.	New mixed-use project with shared amenities on a 1.04-acre site.	Residential	33 du
			Hotel	72 rm
4	207 Seaside Way	Apartment building with two levels of parking.	Apartments	117 du
5	100 Aquarium Way	Expand existing aquarium front by 22,642 sf.	Theater Expansion	22,642 sf 300 seats
6	495 The Promenade North	Mixed-Use	Apartments	20 du
			Retail	5,200 sf
7	110 W. Ocean Blvd.	Adaptive reuse conversion of existing 15-story Ocean Center Building from office use to residential. Re-establish retail use on Ocean & Pine.	Residential	74 du

After inputting the sensitive receptors listed above into Google Earth, you can see that the sensitive receptors located at 110 W. Ocean Blvd and 207 Seaside Way are 30 meters and 75 meters from the Project site, respectively. Thus, the LST analysis included in the DEIR is incorrect, as it is based on a 100-meter receptor distance. Therefore, the sensitive receptor distance used in the DEIR is overestimated and may result in an underestimated impact.

Response to Comment No. 7-44

At the time of release of the Draft EIR, the land uses cited in this comment were proposed uses and not yet developed. Including future sensitive receptors identified in the related projects list (Table III-1 of the Draft EIR) as part of the evaluation of Project-related localized construction impacts would be considered speculative under CEQA given the uncertainty and varying timing of completion of the related projects. This is especially true given the recent COVID-19 pandemic that has substantially changed economic/land use development forecasts for the foreseeable future. For the related project located at 110 West Ocean Boulevard, CEQA documentation recently became available through the City which provides a proposed construction schedule with a construction start date of February 11, 2019 and a buildout year of 2021. It is now clear that the construction schedule and buildout year will be delayed given that final project approval has not yet occurred as of this writing. A conservative construction start date of February 11, 2021 would result in overlapping occupancy of the related project and construction of the proposed Project over an approximate six month duration. For the related project located at 207 Seaside Way, construction is currently underway. It is possible that buildout of that related project may be completed and become operational while the proposed Project is under construction. However, given that there is a large intervening structure between the two sites, pollutant concentrations (e.g., PM₁₀) would be reduced at the 207 Seaside Way site such that a 100-meter receptor distance analyzed in the Draft EIR is representative of potential impacts at this receptor. Nonetheless and in response to this comment, further consideration of the 110 West Ocean Boulevard and 207 Seaside Way sites using a receptor distance of 30 meters and 75 meters, respectively is provided in this Final EIR. Please refer to Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR (specifically, see revisions in Revised Section IV.A, Air Quality, and Revised Draft EIR Appendix B [Air Quality Appendix]). As shown therein, localized construction impacts would remain less than significant.

Comment No. 7-45**Unsubstantiated Input Parameters Used to Estimate Project Emissions**

The DEIR's air quality analysis relies on emissions calculated with CalEEMod.2016.3.2.¹ CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but the California Environmental Quality Act ("CEQA") requires that such changes be justified by substantial evidence.² Once all of the values are inputted into the model, the Project's construction and operational emissions are calculated, and "output files" are generated. These output files disclose to the reader what parameters were utilized in calculating the Project's air

pollutant emissions, and make known which default values were changed as well as provide justification for the values selected.³

¹ CAPCOA (November 2017) CalEEMod User's Guide, http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4.

² Ibid., p. 1, 9.

³ *Supra*, fn 1, p. 11, 12–13. A key feature of the CalEEMod program is the “remarks” feature, where the user explains why a default setting was replaced by a “user defined” value. These remarks are included in the report.

Response to Comment No. 7-45

This comment, which cites CalEEMod User's Guide documentation regarding use of specific project information instead of default parameters, is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 7-46

Review of the Project's air modeling demonstrates that the DEIR underestimates emissions associated with Project activities. As previously stated, the DEIR's air quality analysis relies on air pollutant emissions calculated using CalEEMod. When we reviewed the Project's CalEEMod output files, provided in Appendix B to the DEIR, we found that several of the values inputted into the model were not consistent with information disclosed in the DEIR. As a result, the Project's construction and operational emissions are underestimated. An updated EIR should be prepared to include an updated air quality analysis that adequately evaluates the impacts that construction and operation of the Project will have on local and regional air quality.

Response to Comment No. 7-46

This comment cites minor discrepancies in the CalEEMod modeling performed for the Project in the Draft EIR. In response to this comment and additional specific comments below, updated CalEEMod modeling is provided in this Final EIR. Please refer to Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR (specifically, see revisions in Revised Section IV.A, Air Quality, and Revised Draft EIR Appendix B [Air Quality Appendix]). As shown therein, air quality impacts would remain less than significant, and recirculation is not required.

Comment No. 7-47

Use of Incorrect Land Use Type

As previously stated, the DEIR relies upon CalEEMod to estimate the Project’s construction and operational emissions. Review of the Project’s CalEEMod files demonstrates that the “Land Use Type” inputted into the CalEEMod model is inconsistent with information disclosed in the DEIR. As a result, the Project’s construction and operational emissions may be underestimated.

According to the DEIR, the Project includes the development of “26,847 square feet of meeting rooms, ballrooms, and pre-function space” (p. I-5). Thus, in order to be consistent with what the DEIR proposes and accurately estimate the criteria air pollutant and GHG emissions that will be generated during construction and operation of the Project, CalEEMod should have modeled the 26,847 square feet as part of the Hotel land use. According to the CalEEMod User’s Guide, Hotels are defined as “places of lodging that provide sleeping accommodations and supporting facilities such as restaurants; cocktail lounges; meeting and banquet rooms or convention facilities; limited recreational facilities and other retail and service shops.”⁴ Thus, the 26,847 square feet of meeting rooms, ballrooms, and pre-function space is included in the Hotel land use. Review of the Project’s CalEEMod output files, however, demonstrates that this is not the case (see excerpt below) (Appendix B, pp. 4, 52, 97).

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
Enclosed Parking with Elevator	151.00	Space	0.85	40,593.00	0
Hotel	429.00	Room	14.30	446,123.00	0
Quality Restaurant	23.51	1000sqft	0.54	23,512.00	0
Racquet Club	26.85	1000sqft	0.62	26,847.00	0

As seen in the excerpt above, emissions resulting from construction and operation were modeled as a 26,847 square foot “Racquet Club,” rather than including the space for meeting rooms, ballrooms, and pre-function space as part of the Hotel land use. The inconsistencies found between the “Land Uses” inputted into the model and the descriptions provided in the DEIR present a significant issue. The land use types and size features are used throughout CalEEMod in determining default variables and emission factors that go into the model’s calculations.⁵ CalEEMod assigns each land use type with its own set of energy usage emission factors.⁶ Review of Appendix D to the CalEEMod User’s Guide demonstrates that a hotel land use consumes more energy than a racquet club use.⁷ Therefore, by modeling the proposed meeting rooms, ballrooms, and pre-function space as a “Racquet Club,” the emissions from the Project’s land use’s energy

consumption are not properly accounted for. As a result, we find the emissions estimates within the DEIR's air pollution model to be incorrect and unreliable for determining Project significance.

⁴ *Supra*, fn 1, p. 24.

⁵ *Supra*, fn 1, p. 17.

⁶ CAPCOA (September 2016) CalEEMod User's Guide, Appendix D, http://www.aqmd.gov/docs/default-source/caleemod/upgrades/2016.3/05_appendix-d2016-3-1.pdf?sfvrsn=2.

⁷ *Ibid*.

Response to Comment No. 7-47

This comment correctly identifies that the Draft EIR for purposes of analyzing air quality impacts included 26,847 square feet of "Racquet Club" uses instead of Hotel land uses. From a construction standpoint, use of either type of land use would not change relevant CalEEMod input parameters or construction emissions since both land uses are considered non-residential. From an operational standpoint, "Racquet Club" was used in the Draft EIR analysis to account for some of the hotel amenities (e.g., fitness center). From an energy standpoint, this is more conservative given that the default total electricity energy intensity factor for Racquet Club and Hotel land uses is 11.1 and 7.6 KWhr/thousand square feet/yr, respectively. In response to this comment, the land use classification has been updated in the CalEEMod modeling in this Final EIR. Please refer to Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR (specifically, see revisions in Revised Section IV.A, Air Quality, and Revised Draft EIR Appendix B [Air Quality Appendix]). As shown therein, air quality impacts would remain less than significant.

Comment No. 7-48

Unsubstantiated Reduction of Default Construction Equipment Pieces and Usage Hours

Review of the Project's CalEEMod output files demonstrates that the number of pieces of off-road construction equipment were manually reduced, as well as the usage hours for several pieces of equipment, without providing proper justification for doing so (see excerpts below) (Appendix B, pp. 6, 7, 54, 55, 99, 100).

the necessary equipment amount and usage hours were determined, and substantial evidence that non-default construction equipment list/usage is realistic (e.g., compared to similar projects of this scale), we are unable to verify the reductions in pieces of construction equipment and usage hours. Therefore, the air model inputs utilized to calculate emissions cannot be verified and the resultant emissions estimates may be underestimated.

⁸ *Supra*, fn 1, p. 7, 13, 31-32.

Response to Comment No. 7-48

It is first important to understand how the CalEEMod default construction equipment mixes were developed. CalEEMod calculates the default equipment by construction phase and acreage using “Sample Construction Scenarios” designed by SCAQMD based on a limited number of construction surveys. As stated by SCAQMD, “the sample construction scenarios were developed to generically represent a broad range of project types that occur in the district.”¹³ Therefore, the CalEEMod default construction equipment fleet mix is more appropriately used when project-specific information is not available.

This comment misconstrues the information provided in the CalEEMod output files to incorrectly imply that the analysis removed equipment or reduced equipment operating hours from the default construction equipment mix in order to reduce potential air quality impacts. It should be of note, that this comment does not discuss how the Draft EIR analysis included many additional pieces of equipment by construction phase to be more specific to requirements of the Project. As an example, Section II, Project Description, of the Draft EIR describes the extent of demolition as the removal of the existing parking lot. The CalEEMod default equipment mix provides equipment necessary for the removal of buildings (e.g., excavators). Removal of asphalt parking lots requires a different set of equipment (e.g., crushing/processing equipment and tractors/loaders/backhoes) and were appropriately included in the Draft EIR analysis. Still another example is grading. The CalEEMod default equipment mix assumes a relatively flat site requiring the use of dozers and motor graders for preparation of building pads. In the case of the Project, there would be limited grading (i.e., already flat from being an existing parking lot) and as discussed in the Project Description would require limited excavation for the placement of building footings. Therefore, a crane, bore/drill rig, excavator, loaders, and a welder were included in the analysis to account for the excavation and shoring activities.

¹³ SCAQMD, *Localized Significance Thresholds*, www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook/localized-significance-thresholds, accessed January 30, 2020.

Regarding changes of CalEEMod equipment default usage hours cited in this comment, two of the four pieces of equipment included an increase in usage (i.e., more conservative). Two pieces of paving equipment had a decrease in usage hours (from 8 to 6 hours) since paving operations across the Project Site would be limited. Please refer to Figure II in Section II, Project Description, of the Draft EIR.

While the construction equipment mix by construction phase is readily available in the CalEEMod output files, a separate construction assumption list is provided in this Final EIR. Please refer to Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR (specifically, see revisions in Revised Draft EIR Appendix B [Air Quality Appendix]). No changes to the air quality analyses are necessary based on this comment.

Comment No. 7-49

Incorrectly Applied Mitigation Measure to Construction Emissions

The DEIR recommends mitigation measures in order to reduce construction emissions. According to Mitigation Measure (MM) AIR-1,

“The Project shall utilize off-road diesel-powered construction equipment that meets or exceeds CARB and USEPA Tier 4 off-road emissions standards for excavators and loaders during Project excavation and grading activities” (p. I-32).

However, review of the CalEEMod output files demonstrates that this mitigation measure was incorrectly applied, as the model assumes that Tier 4 Final engines would be used. According to the CalEEMod output files, the model assumes that 9 pieces of construction equipment would be equipped with Tier 4 Final engines (see excerpt below) (Appendix B, pp. 5, 58, 98).

Table Name	Column Name	Default Value	New Value
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	1.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	1.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	1.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	1.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	2.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	3.00
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final

As can be seen in the excerpt above, the CalEEMod model assumes that all of the loaders and excavators, totaling 9 pieces of equipment, used during the construction of the Project would be mitigated with Tier 4 Final equipment. This specification, however, is not stated in Mitigation Measure AIR-1 nor anywhere else in the DEIR. This presents a significant issue, as the DEIR does not commit to the use of the more efficient Tier 4 Final equipment.

Response to Comment No. 7-49

This comment correctly identifies that the analysis of air pollutant impacts relies on the use of Tier 4 *Final* equipment [emphasis added] as mitigation but that Mitigation Measure AIR-1 only identifies the use of Tier 4 equipment. However, the intent of the measure is to use Tier 4 Final equipment, which has been clarified in this Final EIR. Please refer to Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR for the correction to Mitigation Measure AIR-1. No changes to the air quality analyses are necessary based on this comment.

Comment No. 7-50

The United States Environmental Protection Agency (“U.S. EPA”) has slowly adopted more stringent standards to lower the emissions from off-road construction equipment since 1994. Since that time, Tier 1, Tier 2, Tier 3, Tier 4 Interim, and Tier 4 Final construction equipment have been phased in over time. Tier 4 Final represents the cleanest burning equipment and therefore has the lowest emissions compared to other tiers, including Tier 4 Interim equipment (see excerpt below).⁹

Maximum horsepower	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015+
25shp<=50							7.1/4.1 / 0.60			5.6 / 4.1 / 0.45				5.6 / 4.1 / 0.22					3.5 / 4.1 / 0.02		
50shp<= 75										5.6 / 3.7 / 0.30				3.5 / 3.7 / 0.22 ^a					3.5 / 3.7 / 0.02 ^a		
75shp<=100							- / 6.9 / - / -							3.5 / 3.7 / 0.30					0.14 / 2.5 / 3.7 / 0.015 ^b		0.14 / 0.30 / 3.7 / 0.015
100shp<=175										4.9 / 3.7 / 0.22				3.0 / 3.7 / 0.22							
175shp<=300										4.9 / 2.6 / 0.15											
300shp<=600			1.0 / 6.9 / 8.5 / 0.40							4.8 / 2.6 / 0.15				3.0 / 2.6 / 0.15 ^d					0.14 / 1.5 / 2.6 / 0.015 ^e		0.14 / 0.30 / 2.2 / 0.015
600shps750																					
Mobile Machines > 750hp																					
750hp<GEN ≤1200hp							1.0 / 6.9 / 8.5 / 0.40			4.8 / 2.6 / 0.15											0.14 / 2.6 / 2.6 / 0.03
GEN>1200 hp																					0.14 / 0.50 / 2.6 / 0.02

Source: derived from California Air Resources Board, http://www.arb.ca.gov/msprog/ordiesel/documents/Off-Road_Diesel_Stnds.xls.

a) When ARB and USEPA standards differ, the standards shown here represent the more stringent of the two.
 b) Standards given for all sizes of Tier 1 engines are hydrocarbons/oxides of nitrogen (NOx)/carbon monoxide (CO)/particulate matter (PM) in grams per brakehorsepower per hour (g/bhp-hr).
 c) Standards given for all sizes of Tier 2 and Tier 3 engines, and Tier 4 engines below 75 horsepower are non-methane hydrocarbons (NMHC)+NOx/CO/PM in g/bhp-hr.
 d) Standards given for Tier 4 engines above 75 horsepower are NMHC/NOx/CO/PM in g/bhp-hr.
 e) Engine families in this power category may alternately meet Tier 3 PM standards (0.30 g/bhp-hr) from 2008-2011 in exchange for introducing final PM standards in 2012.
 f) The implementation schedule shown is the three-year alternate NOx approach. Other schedules are available.
 g) Certain manufacturers have agreed to comply with these standards by 2005.



As demonstrated in the figure above, Tier 4 Final equipment has lower emissions than Tier 4 Interim equipment. Therefore, since Mitigation Measure AIR-1 fails to specify whether the Project will use Tier 4 Interim or Tier 4 Final equipment, it is incorrect to model emissions assuming that the more efficient Tier 4 Final equipment will be used for all construction equipment. Until the DEIR commits to the use of Tier 4 Final equipment, the Project’s potential impacts should not be evaluated assuming the use of this cleaner burning equipment. As a result, construction emissions are underestimated and the CalEEMod model should not be used to determine Project significance.

⁹ County of San Francisco (August 2015) San Francisco Clean Construction Ordinance Implementation Guide for San Francisco Public Projects, p. 6, https://www.sfdph.org/dph/files/EHSdocs/AirQuality/San_Francisco_Clean_Construction_Ordinance_2015.pdf.

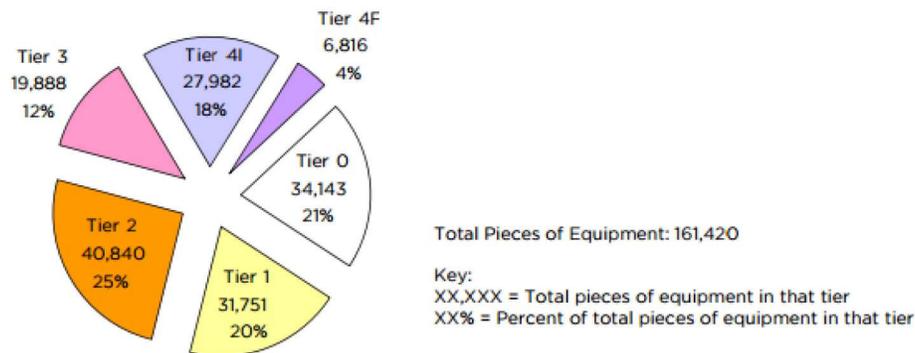
Response to Comment No. 7-50

As discussed above in Response to Comment No. 7-49, this Final EIR provides clarification in Mitigation Measure AIR-1 to specifically require use of Tier 4 Final equipment. Please refer to Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR. No changes to the air quality analyses are necessary based on this comment.

Comment No. 7-51

Furthermore, review of the DEIR demonstrates that the DEIR failed to evaluate the feasibility in obtaining Tier 4 equipment. Due to the limited number of Tier 4, especially Tier 4 Final, equipment available, the DEIR should have assessed the feasibility in obtaining equipment with Tier 4 Final (or interim) engines (see excerpt below).¹⁰

Figure 4: 2014 Statewide All Fleet Sizes (Pieces of Equipment)



As demonstrated in the figure above, the Tier 4 Final and Interim equipment only account for 4% and 18%, respectively, of all off-road equipment currently available in California. Thus, emissions are modeled assuming that the Project will be able to obtain 9 pieces of

Tier 4 final equipment even though this equipment only accounts for 4% of available off-road equipment currently available in California. As a result, the model represents the best-case scenario even though obtaining these types of equipment may not be feasible.

¹⁰ *Ibid.*

Response to Comment No. 7-51

Use of Tier 4 Final construction equipment as mitigation is recommended by SCAQMD for projects that exceed regional emission thresholds for construction. Please see the recent SCAQMD comment letter regarding the Draft EIR for the Proposed Butcher-Solana Residential Development Project, August 2019 (<http://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2019/august/LAC190619-10.pdf?sfvrsn=8>). The Tier 4 Final equipment statistics for Year 2014 (i.e., 2014 Statewide All Fleet Sizes (Pieces of Equipment) provided in this comment are misleading as being relevant to the Project. Year 2014 was the first year that new pieces of equipment had to meet Tier 4 Final requirements and does not reflect the gradual penetration of Tier 4 Final equipment into the market in subsequent years (i.e., Project construction would occur from 2020 to 2022). A review of more relevant data (OFFROAD2017 (v1.0.1) Emissions Inventory) for the proposed construction years shows that the types of equipment requiring Tier 4 Final engines would represent approximately 20 to 50 percent of the total fleet mix in the South Coast Air Basin (likely area where the equipment would be coming from). Therefore, given that the use of Tier 4 Final equipment is a recommended measure by SCAQMD and the equipment is considered readily available, the feasibility of the measure is confirmed. No additional analysis is required based on this comment.

Comment No. 7-52

Failure to Include All Operational Land Uses

According to the DEIR, “[t]he existing Long Beach Bike Share station located at the northwest corner of the Project Site would remain in place as part of the Project” (p. I-6). However, review of the Project’s CalEEMod output files demonstrates that the Long Beach Bike Share station was excluded from the operational model (see excerpt below) (CalEEMod, pp. 4, 52, 97).

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
Enclosed Parking with Elevator	151.00	Space	0.85	40,593.00	0
Hotel	429.00	Room	14.30	446,123.00	0
Quality Restaurant	23.51	1000sqft	0.54	23,512.00	0
Racquet Club	26.85	1000sqft	0.62	26,847.00	0

As you can see in the excerpt above, the air model fails to include the Long Beach Bike Share station. The land usage parameters, including land use types and sizes, are used throughout CalEEMod to determine default variables and emission factors that go into the model's calculations.¹¹ For example, land use areas are used for certain calculations such as determining the wall space to be painted (i.e., VOC emissions from architectural coatings) and volume that is heated or cooled (i.e., energy impacts). Therefore, by failing to include the existing Long Beach Bike Share station, the operational emissions are not properly accounted for. Therefore, an updated air quality analysis should be prepared in an updated DEIR to adequately evaluate the Project's operational air quality impacts.

¹¹ *Supra*, fn 1, p. 14.

Response to Comment No. 7-52

The existing Long Beach Bike Share station located at the northwest corner of the Project Site is an existing use that is unrelated to the Project. It is not clear from this comment how the Long Beach Bike Share station, which would remain on-site, could have been included in the air quality analysis except for potentially including a small reduction in pollutant emissions associated with mobile sources (i.e., reduction in vehicular trips due to the close proximity of the bike sharing facilities). The station consists of bike racks that an individual unlocks with a smartphone application. The station does not generate vehicular trips (instead would likely reduce trips) or use water, electricity, or natural gas. Furthermore, even if the station did generate pollutant emissions, the results of the air quality analysis would remain unchanged since project impacts represent net emissions (Buildout less Baseline). No additional analysis is required based on this comment.

Comment No. 7-53

Incorrect Length and Number of Vendor, Hauling, and Worker Trips

The CalEEMod model relies on incorrect trip lengths and number of worker, hauling, and vendor trips to estimate the Project's construction emissions. As a result, the Project's construction-related air pollutant emissions and associated impacts are underestimated and inadequately addressed.

According to the DEIR, during the mat foundation (i.e., concrete pour) phase of construction, "there would be up to a maximum of 415 concrete trucks (415 inbound trips and 415 outbound trips) per day" (p. I-55). This is a total of 830 one-way trips. According to the CalEEMod User's Guide, cement trucks may be modeled as vendor trips.¹² Review of the CalEEMod output files, however, demonstrates that this is not the case. In addition, the DEIR and associated appendices mention nothing else regarding vendor, hauling, and vehicle trips. However, review of the CalEEMod output files reveals that the air model

includes 17 changes from the default values for vendor, hauling, and worker trips (see excerpt below) (Appendix B, pp. 37,).

Table Name	Column Name	Default Value	New Value
tblTripsAndVMT	HaulingTripLength	20.00	75.00
tblTripsAndVMT	HaulingTripLength	20.00	75.00
tblTripsAndVMT	HaulingTripNumber	237.00	1,250.00
tblTripsAndVMT	HaulingTripNumber	2,938.00	2,000.00
tblTripsAndVMT	VendorTripLength	6.90	0.00
tblTripsAndVMT	VendorTripNumber	88.00	0.00
tblTripsAndVMT	VendorTripNumber	88.00	50.00
tblTripsAndVMT	VendorTripNumber	88.00	15.00
tblTripsAndVMT	VendorTripNumber	88.00	5.00
tblTripsAndVMT	VendorTripNumber	0.00	5.00
tblTripsAndVMT	VendorVehicleClass	HDT_Mix	HHDT
tblTripsAndVMT	WorkerTripNumber	15.00	13.00
tblTripsAndVMT	WorkerTripNumber	226.00	248.00
tblTripsAndVMT	WorkerTripNumber	226.00	248.00
tblTripsAndVMT	WorkerTripNumber	226.00	248.00
tblTripsAndVMT	WorkerTripNumber	226.00	248.00
tblTripsAndVMT	WorkerTripNumber	45.00	50.00

As you can see in the excerpt above, the vendor trip length and total daily trips during the mat foundation (i.e., concrete pour) phase of construction were manually reduced from the default values of 6.90 and 88 to 0, respectively. Thus, without inputting the 830 one-way trips discussed in the DEIR and by reducing the trip length to 0, the air model fails to include emissions due to vendor trips for the mat foundation phase of construction. As a result, construction emissions are underestimated. In order to provide the most conservative analysis, as is required by CEQA, the DEIR's air model should have utilized the indicated trip values indicated for the mat foundation phase to model the Project's construction-related air pollutant emissions.

¹² *Supra*, fn 1, p. 26.

Response to Comment No. 7-53

As discussed above in Response to Comment No. 7-48, the CalEEMod default construction assumptions are more appropriately used when project-specific information is not available. In this case, Project-specific information was used which better characterized Project-related construction impacts. As an example, the hauling trip length was modified from the CalEEMod default trip length of 20 miles to 75 miles to account for the trip distance to Vulcan Materials Irwindale. The number of demolition debris haul trips

was modified from the CalEEMod default of 237 trips to 1,250 trips. These types of changes to CalEEMod default assumptions are typical where project-specific information is available. Further clarification regarding the changes in the CalEEMod default assumptions is included in this Final EIR. Please refer to Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR (specifically, see revisions in Revised Draft EIR Appendix B [Air Quality Appendix]).

The commenter is correct that the vendor trip length and total daily trips during the mat foundation (i.e., concrete pour) phase of construction were manually reduced from the default values of 6.90 and 88 to 0, respectively. As discussed on page IV.A-33 of the Draft EIR:

The Project will require a continuous concrete pour requiring 415 truck loads per day, to be poured over two days. The calculations take into account Project Design Feature AIR-7 which requires use of model year 2007 and newer trucks. As CalEEMod is unable to calculate the emissions reductions due to implementation of Project Design Feature AIR-7, continuous concrete pour emissions were calculated using CARB's EMFAC and spreadsheet methodology. Paved road dust was calculated using USEPA AP-42 equations, consistent with CalEEMod methodology.

Thus, CalEEMod default values were set to zero since pollutant emissions had to be calculated outside of the model. It should be pointed out that the Project would not use 415 trucks to deliver the concrete. Instead, it was conservatively assumed that approximately 100 trucks would be required for the concrete pour. Thus, the pollutant calculations included 1 cold start and 8 warm starts per truck, 10 minutes of idle time per load, and a round trip distance per load of 13.8 miles (CalEEMod default one-way trip distance of 6.9 miles x 2). The worksheets were included in Appendix B of the Draft EIR.

No changes to the air quality analyses are necessary based on this comment.

Comment No. 7-54

Furthermore, as previously stated, the CalEEMod User Guide requires that any non-default values inputted must be justified.¹³ However, review of the "User Entered Comments & Non-Default Data" section of the CalEEMod output files shows that, in regards to the changes to worker, hauling, and vendor trips, as well as hauling and vendor trip lengths, the only justification is to "see assumptions" (Appendix B, pp. 4, 52, 97). However, the DEIR and Appendix E, which contains the Traffic Study and Transportation Impact Study, both fail to address any of these changes. Thus, without any justification for the

17 changes made to worker, hauling, and vehicle trips, the air model cannot be relied upon to evaluate Project emissions.

Response to Comment No. 7-54

As discussed above in Response to Comment No. 7-48, clarification regarding the changes to CalEEMod default construction assumptions is provided in this Final EIR. No further changes to the air quality analyses are necessary based on this comment.

Comment No. 7-55

Failing to account for the correct length and number of worker, hauling, and vendor trips that would occur during Project construction presents a significant issue. The number of worker, hauling, and vendor trips and associated vehicle miles traveled (VMT) are used by CalEEMod to determine both the exhaust emissions associated with on-road vehicle use and fugitive dust emissions.¹⁴ Therefore, by failing to account for the correct length and number of worker, hauling, and vendor trips that would be required during construction, the Project's construction emissions are underestimated.

¹⁴ CAPCOA (Oct 2017) CalEEMod User's Guide: Appendix A, p. 13, http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6.

Response to Comment No. 7-55

The commenter's presumption that the Draft EIR used incorrect trip lengths and number of worker, hauling, and vendor trips is unfounded. Simply because the assumptions are not consistent with CalEEMod default values does not invalidate the assumptions. As discussed above in Response to Comment No. 7-48, further clarification regarding changes in the CalEEMod default assumptions is included in this Final EIR. Please refer to Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR (specifically, see Revised Draft EIR Appendix B [Air Quality Appendix]). No changes to the air quality analyses are necessary based on this comment.

Comment No. 7-56

Unsubstantiated Changes to Vehicle Emission Factors

The vehicle emission factors used to estimate the proposed Project's mobile source operational emissions were changed from the CalEEMod default values without justification. As a result, the Project's operational emissions are incorrect and unsubstantiated.

Review of the Project's CalEEMod output files demonstrates that 1,203 of the vehicle emission factors were manually changed from their default values (Appendix B, pp. 7–32, 56–81, 100–125). According to the “User Entered Comments & Non-Default Data” table, the model's vehicle emission factors were artificially changed based on “assumptions” (Appendix B, pp. 4, 52, 97). However, review of Appendix E, which contains the Traffic Study and Transportation Impact Study, demonstrates that vehicle emission factors were not mentioned. The DEIR does state that “[d]etails of the modeling assumptions and emission factors are provided in Appendix B of this Draft EIR” (p. IV.C-39 and IV.A-24). However, because the DEIR and associated appendices failed to provide further explanation for changing the vehicle emission factors, we are unable to verify these values. Therefore, without substantial evidence as to why these factors should have been altered, we find the Project's air quality model to be incorrect and potentially underestimated.

Response to Comment No. 7-56

The commenter correctly indicates the mobile source operational emission factors do not reflect CalEEMod default values. This was an unintentional error that occurred when the modeling year was changed within CalEEMod to reflect buildout of the Project, as the emission factors did not automatically update accordingly. In response to this comment, the mobile source emission factors have been updated in the CalEEMod modeling, as presented in this Final EIR. Please refer to Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR (specifically, see Revised Section IV.A, Air Quality, and Revised Draft EIR Appendix B [Air Quality Appendix]). As shown therein, air quality impacts would remain less than significant.

Comment No. 7-57

Unsubstantiated Changes to Fleet Mix

The fleet mix used to estimate the proposed Project's mobile source operational emissions was changed from the CalEEMod default values without justification. As a result, the Project's operational emissions are incorrect and unsubstantiated.

According to the Project's CalEEMod output files, the following fleet mix values were used to estimate the Project's operational emissions (see excerpt below) (Appendix B, pp. 5–6, 53–54, 98–99).

Table Name	Column Name	Default Value	New Value
tblFleetMix	HHD	0.03	0.03
tblFleetMix	HHD	0.03	0.03
tblFleetMix	HHD	0.03	0.03
tblFleetMix	HHD	0.03	0.03
tblFleetMix	LDA	0.55	0.55
tblFleetMix	LDA	0.55	0.55
tblFleetMix	LDA	0.55	0.55
tblFleetMix	LDA	0.55	0.55
tblFleetMix	LDT1	0.04	0.04
tblFleetMix	LDT1	0.04	0.04
tblFleetMix	LDT1	0.04	0.04
tblFleetMix	LDT1	0.04	0.04
tblFleetMix	LDT2	0.20	0.20
tblFleetMix	LDT2	0.20	0.20
tblFleetMix	LDT2	0.20	0.20
tblFleetMix	LDT2	0.20	0.20
tblFleetMix	LHD1	0.02	0.02
tblFleetMix	LHD1	0.02	0.02
tblFleetMix	LHD1	0.02	0.02
tblFleetMix	LHD1	0.02	0.02
tblFleetMix	LHD2	5.8830e-003	5.8640e-003
tblFleetMix	LHD2	5.8830e-003	5.8640e-003
tblFleetMix	LHD2	5.8830e-003	5.8640e-003
tblFleetMix	LHD2	5.8830e-003	5.8640e-003
tblFleetMix	MCY	4.8030e-003	4.7660e-003
tblFleetMix	MCY	4.8030e-003	4.7660e-003
tblFleetMix	MCY	4.8030e-003	4.7660e-003
tblFleetMix	MCY	4.8030e-003	4.7660e-003
tblFleetMix	MDV	0.12	0.12
tblFleetMix	MDV	0.12	0.12
tblFleetMix	MDV	0.12	0.12
tblFleetMix	MDV	0.12	0.12
tblFleetMix	MH	8.9600e-004	9.2400e-004
tblFleetMix	MH	8.9600e-004	9.2400e-004
tblFleetMix	MH	8.9600e-004	9.2400e-004
tblFleetMix	MH	8.9600e-004	9.2400e-004
tblFleetMix	MHD	0.02	0.02
tblFleetMix	MHD	0.02	0.02
tblFleetMix	MHD	0.02	0.02
tblFleetMix	MHD	0.02	0.02
tblFleetMix	OBUS	2.0870e-003	2.0590e-003
tblFleetMix	OBUS	2.0870e-003	2.0590e-003
tblFleetMix	OBUS	2.0870e-003	2.0590e-003
tblFleetMix	OBUS	2.0870e-003	2.0590e-003
tblFleetMix	SBUS	7.0800e-004	7.0800e-004
tblFleetMix	SBUS	7.0800e-004	7.0800e-004
tblFleetMix	SBUS	7.0800e-004	7.0800e-004
tblFleetMix	SBUS	7.0800e-004	7.0800e-004
tblFleetMix	UBUS	1.8180e-003	1.8660e-003
tblFleetMix	UBUS	1.8180e-003	1.8660e-003
tblFleetMix	UBUS	1.8180e-003	1.8660e-003
tblFleetMix	UBUS	1.8180e-003	1.8660e-003

According to the “User Entered Comments & Non-Default Data” table, the model’s fleet mix values were artificially changed based on “assumptions” (Appendix B, pp. 4, 52, 97). However, review of the DEIR and associated appendices reveals that no information was provided on the fleet mix. As previously stated, the CalEEMod User Guide requires that any non-default values inputted must be justified.¹⁵ Because the DEIR failed to provide any explanation for changing the fleet mix, we are unable to verify these values. Therefore, an updated DEIR is required to either provide justification for these changes or eliminate them from the air model and we find the DEIR’s air quality analysis to be unsubstantiated and should not be relied upon to determine Project significance.

¹⁵ *Supra*, fn 1, p. 7, 13.

Response to Comment No. 7-57

Similar to Comment No. 7-57, the commenter correctly indicates that the mobile fleet mix does not reflect CalEEMod default values. This was an unintentional error that occurred when the modeling year was changed within CalEEMod to reflect buildout of the Project, as the mobile fleet mix did not automatically update accordingly. In response to this comment, the mobile fleet mix has been updated in the CalEEMod modeling, as presented in this Final EIR. Please refer to Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR (specifically, see Revised Section IV.A, Air Quality, and Revised Draft EIR Appendix B [Air Quality Appendix]). As shown therein, air quality impacts would remain less than significant.

Comment No. 7-58

Unsubstantiated Changes to Title-24 Electricity Energy Intensity

The CalEEMod model relies on incorrect Title-24 Electricity Energy Intensity values to model emissions. As a result, the Project’s energy usage and operational emissions are significantly underestimated.

Review of the Project’s CalEEMod output files demonstrates that the Title-24 Electricity Energy Intensity value was artificially changed from the default value of 3.92 to 0.43 (see excerpt below) (Appendix B, pp. 5, 53, 98).

tblEnergyUse	T24E	3.92	0.43
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As you can see in the excerpt above, the CalEEMod model assumes a Title-24 Electricity Energy Intensity value of 0.43 to calculate emissions. As a result of this reductions, operational Project emissions may be underestimated. As previously stated, the

CalEEMod User Guide requires that any non-default values inputted must be justified.¹⁶ However, in the “User Entered Comments & Non-Default Data” section, the DEIR merely states, “see assumptions” (Appendix B, pp. 4, 52, 97). Review of the Project documents reveals that the DEIR says that the Project will either meet or exceed “Title 24, Part 6, California Energy Code baseline standard requirements by 10 percent for energy efficiency, based on the 2016 Building Energy Efficiency Standards requirements” (p. IV.C-44). However, meeting or exceeding standard requirements, does not justify a manual change to the electricity energy intensity value. Furthermore, a 10% reduction from the default value of 3.92 would be approximately 3.53. As a result, the change to the Title-24 Electricity Energy Intensity is unsubstantiated. Therefore, the air model inputs utilized to calculate operational emissions cannot be verified and the resultant emissions estimates cannot be relied upon to evaluate the Project’s air quality impacts.

¹⁶ *Supra*, fn 1, p. 7, 13.

Response to Comment No. 7-58

The comment correctly identifies that the CalEEMod default value for energy intensity for parking structures was modified. Appendix E, Technical Source Documentation, of the CalEEMod User’s Guide provides a ventilation rate in terms of flow rate (cfm/ft²) or 0.6 hp/1,000 ft² and assumes operation 24-hours per day (overly conservative given that carbon monoxide emissions have steadily declined in the past decade). Please note that CalEEMod erroneously attempts to provide a correlation between hp and ft² even though the height of a parking structure is not fixed and the volume of air that would need to be handled could vary. CalEEMod cites Title 24 Year 2013 standard as the source for 0.6 hp/1,000 ft². However, the Title 24 Year 2013 standard does not provide a hp/1,000 ft² standard. Instead it provides a minimum 0.15 cfm/ft² flow rate, which was used in the Draft EIR analysis. In reviewing Appendix E of the CalEEMod User’s Guide, it cites that ventilation would equal 3.92 kWh/sf (Table 2). However, the subsequent paragraph in Appendix E states:

Based on the analysis above (Table 2), parking facilities use between 0.05 and 0.40 kW per square foot per year, and this is much lower when compared to some of the land uses already represented in CalEEMod. The lower end of electric energy rates in CalEEMod includes manufacturing, unrefrigerated warehouses (0.65 kwh/sf/yr)....

Please note that the estimate of 0.41 kW/ft² used for ventilation of the parking structure in the Draft EIR is within the range provided in Appendix E of the CalEEMod User’s Guide.

This issue regarding electricity usage from ventilation of parking structures was addressed on a previous project in which metered data was available for the existing structure. The CalEEMod default parking electricity factors resulted in an order of magnitude overestimation of electricity and would have overestimated the emission credit to the project. Eyestone began investigating the calculation procedure and provided an alternative calculation procedure to SCAQMD that they are considering in an update to CalEEMod. This calculation procedure has been included in many CEQA documents without comment from SCAQMD.

A Codes and Standards Enhancement Initiative (CASE) for Garage Exhaust (2013 Building Energy Efficiency Standards) was prepared by the California Utilities Statewide Codes and Standards Team in September 2011.¹⁴ The data on page 10 provides some additional support for the calculated annual kW for exhaust fan power. The data shows that an enclosed parking garage with a constant 0.75 cfm/ft² for a 61,700 sf parking garage would result in an energy consumption of 8,900 kwh for a four month period analyzed (a demand-controlled ventilation would only be 2,200 kwh). Projecting over an annual basis, the total would be 35,600 kwh. It was estimated that the proposed 40,593 sf parking garage in the Draft EIR would result in 78,446 annual kwh of energy usage associated with ventilation. The estimated energy use calculated in the Draft EIR is within the range of this study and no further analysis is required as the result of this comment.

Comment No. 7-59

Updated Analysis Indicates Significant Pollutant Emissions

In an effort to accurately determine the proposed Project's construction and operational emissions, we prepared an updated CalEEMod model that includes more site-specific information and correct input parameters, as provided by the DEIR. In the updated model (output files attached hereto as Exhibit A), we added the meeting rooms, ballrooms, and pre-function space to the hotel land use to reflect the appropriate land use type for this space. We also left the default values for construction equipment, vehicle emission factors, and fleet mix. Values for vendor, worker, and hauling trips were left as default for all phases except the mat foundation phase of construction to reflect the 830 one-way trips indicated in the DEIR (p. I-55). Finally, we ran the model without Tier 4 Final mitigation and changes to the T24 Electricity Energy Intensity, as these changes were unsubstantiated in the DEIR. Please also note that we were unable to include the addition of the Long Beach Bike Share station in an operational model, as would be appropriate, due to the fact that

¹⁴ Previously available at www.energy.ca.gov/title24/2013standards/prerulemaking/documents/current/Reports/Nonresidential/Covered_Processes/2013_CASE_ASHRAE8-GarageExhaust_09.30.2011.pdf; on file with Long Beach Development Services—Planning Bureau.

the DEIR provided no information about it, except for its location. As a result, we are unable to model for its emissions. In an updated DEIR, this should be included and added to the operational emissions for correct analysis.

When correct, site-specific input parameters are used to model emissions, we find that the Project's construction-related VOC and NOx emissions increase significantly when compared to the DEIR's model. Furthermore, we find that the Project's construction-related VOC and NOx emissions exceed the 100 and 75 pounds per day (lbs/day) thresholds, respectively, set by the SCAQMD (see table below).¹⁷

Maximum Daily Construction Emissions (lbs/day)		
Model	VOC	NOx
DEIR	44.83	83.99
SWAPE	75.12	166.24
Percent Increase	67.55	97.93
SMAQMD Regional Threshold (lbs/day)	75	100
Exceed?	Yes	Yes

When correct input parameters are used to model the Project's emissions, construction-related VOC and NOx emissions increase by approximately 68% and 98% and exceed the SCAQMD thresholds of 75 lbs/day and 100 lbs/day, respectively.

Our updated model demonstrates that when the Project's construction and operational emissions are estimated correctly, the Project would result in a potentially significant air quality impact that was not previously identified or addressed in the DEIR. As a result, an updated DEIR should be prepared to include an updated air pollution model to adequately estimate the Project's construction and operational emissions and incorporate mitigation measures to reduce these emissions to a less than significant level.

¹⁷ SCAQMD (June 2015) Risk Assessment Procedures for Rules 1401, 1401.1 and 212, p. IX-2, <http://www.aqmd.gov/docs/default-source/planning/risk-assessment/riskassprocjune15.pdf?sfvrsn=2>.

Response to Comment No. 7-59

From a construction standpoint, SWAPE's CalEEMod analysis is fundamentally flawed for several reasons. First, SWAPE suggests that the Draft EIR should have assumed all default CalEEMod input parameters for equipment mix and vehicular trips (vendor, worker, and hauling). However, SWAPE's analysis includes both CalEEMod default equipment as well as the site-specific equipment included in the Draft EIR needed for proposed construction activities. This approach basically doubles the amount of equipment and is not representative of what would occur on site. As an example, SWAPE

added in a CalEEMod default motor grader during grading, but also included the bore/drill rig included in the Draft EIR analysis (non-default). As discussed in Response to Comment No. 7-48, the CalEEMod default equipment mix assumes a relatively flat site requiring the use of dozers and motor graders for preparation of building pads. In the case of the Project, there would be limited grading (i.e., already flat from being an existing parking lot) and as discussed in the Project Description would require limited excavation for the placement of building footings.

Second, SWAPE does not include use of Tier 4 equipment as mitigation. It was acknowledged in Response to Comment No 7-49 that Mitigation Measure AIR-1 only identifies use of Tier 4 equipment. The intent of the measure was to use Tier 4 Final equipment and not Tier 4 Interim equipment. This point has been clarified in this Final EIR. So, at the very least SWAPE should have included Tier 4 Interim emission factors to account for Mitigation Measure AIR-1. Accounting for this mitigation would show grading impacts as falling below the applicable SCAQMD thresholds.

Third, the mat foundation phase is not a CalEEMod default construction phase. Therefore, using SWAPE's analysis approach, the mat foundation phase shouldn't have been included in the modeling. As discussed above in Response to Comment No. 7-53, pollutant emissions from vendor trips during the mat foundation (i.e., concrete pour) phase of construction were manually calculated to account for Project Design Feature AIR-7. Specifically, it is stated on page IV.A-33 of the Draft EIR,

The Project will require a continuous concrete pour requiring 415 truck loads per day, to be poured over two days. The calculations take into account Project Design Feature AIR-7 which requires use of model year 2007 and newer trucks. As CalEEMod is unable to calculate the emissions reductions due to implementation of Project Design Feature AIR-7, continuous concrete pour emissions were calculated using CARB's EMFAC and spreadsheet methodology. Paved road dust was calculated using USEPA AP-42 equations, consistent with CalEEMod methodology.

The worksheets were included in Appendix B of the Draft EIR. SWAPE's analysis makes no attempt to acknowledge Project Design Feature AIR-7 or to calculate the reduction in emissions associated with this pollutant reduction measure. When accounting for Project Design Feature AIR-7, pollutant emissions associated with the mat foundation phase are reduced below SCAQMD's regional construction emission thresholds.

For the reasons discussed above, SWAPE's construction analysis is fundamentally flawed and grossly overestimates potential impacts. No changes to the construction

analysis provided in the Draft EIR are warranted based on this comment, and air quality impacts would remain less than significant.

From an operational standpoint, it is acknowledged above in Response to Comment Nos. 7-52 and 7-53 that the mobile source fleet mix and emission factors needed to be updated to reflect Year 2022 factors in this Final EIR. As discussed above in Response to Comment No. 7-47, changing the land use from racquet club to hotel for the meeting rooms, fitness room, ballrooms, and pre-function space would reduce electricity usage and be considered less conservative. Response to Comment No. 7-52 explains why not including the reduction in emissions from the Long Beach Bike Share station (i.e., offset vehicular trips) was conservative and, therefore, not included in the analysis. Finally, as discussed in Response to Comment No. 7-58, the adjustment to the T24 Electricity Energy Intensity for the proposed parking structure was appropriate. With that being said, SWAPE's own analysis demonstrates that the Project would result in less than significant regional operational impacts.

It should be noted that the CalEEMod output provided by SWAPE incorrectly implements CAPCOA measures cited in Section IV.C, Greenhouse Gas Emissions, of the Draft EIR (page IV.C-67). Neither this comment or SWAPE's CalEEMod output file provides a justification for modifying these CAPCOA pollutant reduction measures (e.g., proximity to transit) provided in the Draft EIR analysis. This is evidenced by the fact that the Draft EIR and SWAPE CalEEMod output files for the unmitigated condition both show that vehicular trips associated with the Project would generate 11.9 million annual VMT. However, the mitigated condition which accounts for implementation of CAPCOA measures is substantially different. The Draft EIR shows that annual VMT would be reduced to 3,958,183 miles, but SWAPE only shows VMT would be reduced to 8,606,581 miles. As VMT is directly proportional to pollutant emissions from mobile sources, SWAPE grossly overestimates mobile source emissions when accounting for CAPCOA reduction measures. As discussed above, SWAPE provides no justification for these changes and incorrectly purports to include these measures consistent with the Draft EIR. Regardless, SWAPE's own analysis demonstrates that regional operational impacts would be less than significant.

Comment No. 7-60

Diesel Particulate Matter Health Risk Emissions Inadequately Evaluated

The DEIR concludes that the proposed Project would have a less than significant health risk impact on nearby sensitive receptors without conducting a construction or operational health risk assessment ("HRA") (p. IV.A-36, p. IV.A-40). The DEIR attempts to justify this determination by stating,

“SCAQMD’s CEQA guidance does not require a health risk assessment (HRA) for short-term construction emissions. It is, therefore, not necessary to evaluate long-term cancer impacts from construction activities which occur over a relatively short duration. In addition, there would be no residual emissions or corresponding individual cancer risk after construction. As such, Project-related TAC impacts during construction would be less than significant” (p. IV.A-36).

The DEIR goes on to state,

“As the Project would not contain substantial TAC sources and is consistent with the CARB and SCAQMD guidelines, the Project would not result in the exposure of off-site sensitive receptors to carcinogenic or toxic air contaminants that exceed the maximum incremental cancer risk of 10 in one million or an acute or chronic hazard index of 1.0, and potential TAC impacts would be less than significant” (p. IV.A-40).

Response to Comment No. 7-60

Long Beach Development Services relies on methodology established by SCAQMD for preparation of CEQA air quality analyses. SCAQMD shares responsibility with the California Air Resources Board (CARB) for ensuring that all state and federal ambient air quality standards are achieved and maintained throughout all of Los Angeles County and the urban portions of Orange, Riverside, and San Bernardino counties. SCAQMD has jurisdiction over an area of approximately 10,743 square miles. Although SCAQMD is responsible for regional air quality planning efforts, it does not have the authority to directly regulate the air quality issues associated with new development projects within the Air Basin, such as the Project. Instead, SCAQMD published the *CEQA Air Quality Handbook* in November 1993 to assist lead agencies, as well as consultants, project proponents, and other interested parties, in evaluating potential air quality impacts of projects proposed in the Air Basin. The *CEQA Air Quality Handbook* provides standards, methodologies, and procedures for conducting air quality analyses in EIRs and was used extensively in the preparation of the air quality analysis for the Project.

The SCAQMD CEQA Handbook does not recommend analysis of TACs from short-term construction activities. The rationale for not requiring a health risk assessment for construction activities is the limited duration of exposure. According to SCAQMD methodology, health effects from carcinogenic air toxics are usually described in terms of individual cancer risk. Specifically, “Individual Cancer Risk” is the likelihood that a person continuously exposed to concentrations of toxic air contaminants (TACs) over a 70-year lifetime will contract cancer based on the use of standard risk assessment methodology.

Given that the greatest potential for diesel particulate emissions would only occur during demolition and excavation/grading activities (approximately 2 months) and other construction activities during the overall construction schedule of approximately 28 months would result in reduced use of heavy-duty diesel construction equipment in comparison to demolition and excavation/grading activities, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions. No residual TAC emissions and corresponding individual cancer risk are anticipated after construction. Because there is such a short-term exposure period (30 out of 840 months of a 70-year lifetime), further evaluation of construction TAC emissions within the Draft EIR was not warranted. As such, the Draft EIR correctly concluded that Project-related TAC impacts during construction were less than significant.

This comment also misrepresents SCAQMD's guidance regarding use of age sensitivity factors (e.g., third trimester to age 5) in OEHHA's new Guidance Manual for HRAs. The referenced SCAQMD guidance applies to HRAs subject to SCAQMD's AB 2588 and Rule 1402. These rules apply to large stationary sources subject to the Air Toxics "Hot Spots" Program that routinely release air toxics into the air (e.g., industrial facilities) and not short-term construction activities.

Although there is no requirement or guidance for preparing a construction HRA by SCAQMD or the City, for informational purposes, an HRA has been prepared in response to this comment to demonstrate that no significant health risk impacts would occur from construction of the Project. The HRA is included as Appendix FEIR-2 of this Final EIR. The HRA demonstrates that health risks from the Project would be a maximum of 8.1 in one million for residential uses to the east of the Project site, which is below the applicable significance threshold of 10 in one million. It is noted that this risk assumes an outdoor exposure for the entire length of construction and does not account for any reductions from the time spent indoors where air quality tends to be better. Thus, the analysis is conservative.

From an operational standpoint, the Draft EIR correctly identified that the primary sources of potential air toxics associated with Project operations include diesel particulate matter from delivery trucks (e.g., truck traffic on local streets and idling on adjacent streets). However, these activities, and the land uses associated with the Project, would not generate substantial TAC emissions based on review of the air toxic sources listed in SCAQMD and CARB's guidelines. The commenter is referred to SCAQMD guidance below that provides clarification as to when an HRA may be warranted:

SCAQMD published and adopted the *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*, which provides recommendations regarding the siting of new sensitive land uses near potential sources of air toxic emissions

(e.g., freeways, distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners, and gasoline dispensing facilities).¹⁵ SCAQMD recommends that HRAs be conducted for substantial sources of DPM (e.g., truck stops and warehouse distribution facilities that generate more than 100 trucks per day or more than 40 trucks with operating transport refrigeration units).

The Project proposes to construct a 429-guest room hotel with 23,512 square feet of restaurant space and 26,847 square feet of meeting and ballroom space. A conservative estimate of the number of daily truck trips is provided below.

- Hotel guests generally do not generate diesel truck trips. However, delivery truck trips would be anticipated as a result of hauling laundry, housekeeping services, and banquet type activities (transport of necessary items to events on property). It is conservatively assumed that 25 truck deliveries would occur on a peak day. These delivery trucks are typically smaller box trucks and a mix of gasoline and diesel. Approximately one to two trash truck would be required per day. Using these conservative assumptions, the total trucks related to the proposed hotel use would equal 26 on a peak day. Please note that this assumes that all trucks would be diesel.
- It is conservatively estimated that the 23,512 square feet of restaurant space would generate a maximum of ten deliveries per day and require two trash trucks per week. This is equivalent to 3,754 trucks per year or just over ten trucks per day. Delivery trucks are typically smaller box trucks and a mix of gasoline and diesel. However, it is conservatively assumed that all trucks would be diesel.

As shown above, the Project is estimated to generate approximately 36 trucks per day (conservatively assumed to all be diesel trucks). Based on SCAQMD guidance, there was no quantitative analysis required for future cancer risk within the Project Area as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*. Specifically, the Project is not considered to be a substantial source of diesel particulate matter warranting a refined HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating transport refrigeration units.

¹⁵ SCAQMD, *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*, May 6, 2005.

SCAQMD, as a Responsible Commenting Agency, provided the following comment on January 4, 2017, regarding the proposed Green Line Mixed Use Specific Plan¹⁶, which further supports that only substantial operational diesel truck activity warrants further evaluation in an HRA:

If the proposed project will expose future sensitive receptors to potential adverse health impacts from carcinogenic emissions generated by the SCAQMD permitted stationary sources and from the nearby rail and truck operations, SCAQMD staff recommends that a health risk assessment (HRA) be conducted. The HRA should include the SCAQMD permitted sources (i.e., the gasoline storage and dispensing equipment, the auto-body shop spray booths) emitting toxic air contaminants (TACs) within one quarter mile of the project site. The HRA should also include all warehouse sites within 1,000 feet that include truck activity that exceeds 100 trucks per day, or where more than 40 trucks with operating transport refrigeration units (TRUs) per day, or where TRU units exceed 300 hours per week.

Based on the above information, the Draft EIR correctly concluded that an operational HRA was not warranted.

Comment No. 7-61

These justifications for failing to conduct a construction or operational health risk analysis are incorrect for several reasons.

First, simply stating that the Project's construction phase is "short-term" does not justify the omission of a construction HRA. According to the SCAQMD, it is recommended that health risk impacts for short-term projects also be assessed. The Guidance document states,

"Since these short-term calculations are only meant for projects with limits on the operating duration, these short-term cancer risk assessments can be thought of as being the equivalent to a 30-year cancer risk estimate and the appropriate thresholds would still apply (i.e. for a 5-year project, the maximum emissions during the 5-year period would be assessed on the more sensitive population, from the third trimester to age 5, after which the project's

¹⁶ SCAQMD, *Draft Environmental Impact Report (DEIR) for the Green Line Mixed Use Specific Plan, January 4, 2017*, www.aqmd.gov/docs/default-source/ceqa/comment-letters/2017/deirgreenline010417.pdf?sfvrsn=5, accessed January 30, 2020.

emissions would drop to 0 for the remaining 25 years to get the 30-year equivalent cancer risk estimate)".¹⁸

Thus, an HRA is required to determine whether or not the proposed Project would expose sensitive receptors to substantial air pollutants. The DEIR should have conducted some sort of quantitative analysis and compared the results of this analysis to applicable thresholds. The SCAQMD provides a specific numerical threshold of 10 in one million for determining a project's health risk impact.¹⁹ Therefore, the DEIR should have conducted an assessment that compares the Project's construction and operational health risks to this threshold in order to determine the Project's health risk impact. By failing to prepare an HRA, the DEIR fails to provide a comprehensive analysis of the sensitive receptor impacts that may occur as a result of exposure to substantial air pollutants.

¹⁸ *Ibid.*

Response to Comment No. 7-61

This comment correctly identifies that the Office of Environmental Health Hazard Assessment (OEHHA) adopted a new version of the Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (Guidance Manual) in March of 2015.¹⁷ The Guidance Manual was developed by OEHHA, in conjunction with CARB, for use in implementing the Air Toxics "Hot Spots" Program (Health and Safety Code Section 44360 et. seq.). The Air Toxics "Hot Spots" Program requires stationary sources to report the types and quantities of certain substances routinely released into the air. The goals of the Air Toxics "Hot Spots" Act are to collect emission data, to identify facilities having localized impacts, to ascertain health risks, to notify nearby residents of significant risks, and to reduce those significant risks to acceptable levels.

The 2015 Guidance Manual provides recommendations related to cancer risk evaluation of certain short-term projects. As discussed in Section 8.2.10 of the Guidance Manual, "[t]he local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation." Short-term projects that would require a permitting decision by SCAQMD typically would be limited to site remediation (e.g., stationary soil vapor extractors) and would not be applicable to the Proposed Project. The new Guidance Manual does not provide specific recommendations for evaluation of short-term use of mobile sources (e.g., heavy-duty diesel construction equipment). This comment

¹⁷ See OEHHA, *Notice of Adoption of Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments 2015*, www.oehha.ca.gov/air/hot_spots/hotspots2015.html.

misrepresents OEHHA's guidance in Section 8.2.10 (page 8-18) that "the OEHHA document recommends that all short-term projects lasting at least two months be evaluated for cancer risks to nearby sensitive receptors." As discussed above, this guidance is not applicable to the Project.

On behalf of the City of Long Beach, Eyestone Environmental (Eyestone) coordinated with SCAQMD to determine whether SCAQMD had any available current guidance on use of the new Guidance Manual. According to Lijin Sun, SCAQMD CEQA Program Supervisor, SCAQMD is currently evaluating the new Guidance Manual and they have not developed any recommendations on its use for CEQA analyses for potential construction impacts.¹⁸ Moreover, the City of Long Beach, as Lead Agency for the Project, has not adopted the Guidance Manual as part of its CEQA methodology. Therefore, use of the SCAQMD's *CEQA Air Quality Handbook* for determining impacts related to potential construction TAC impacts was appropriate.

Although there is no requirement or guidance for preparing a construction HRA by SCAQMD or the City, for informational purposes, an HRA has been prepared in response to this comment to demonstrate that no significant health risk impacts would occur from construction of the Project. The HRA is included as Appendix FEIR-2 of this Final EIR. As shown therein, health risk impacts would be less than significant.

Comment No. 7-62

Additionally, the omission of a quantified construction and operational HRA is inconsistent with the most recent guidance published by the Office of Environmental Health Hazard Assessment ("OEHHA"), the organization responsible for providing recommendations for health risk assessments in California. In February of 2015, OEHHA released its most recent *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments*, which was formally adopted in March of 2015.²⁰ This guidance document describes the types of projects that warrant the preparation of a health risk assessment. Construction of the Project will produce emissions of DPM, through the exhaust stacks of construction equipment over a construction period of 30 months (p. I-22). The OEHHA document recommends that all short-term projects lasting at least two months be evaluated for cancer risks to nearby sensitive receptors.²¹

¹⁹ SCAQMD (April 2019) South Coast AQMD Air Quality Significance Thresholds, <http://www.aqmd.gov/docs/default-source/ceqa/handbook/scaqmd-air-quality-significance-thresholds.pdf?sfvrsn=2>.

¹⁸ Lijin Sun, SCAQMD CEQA Program Supervisor. Personal communication via email, May 16, 2018. See Appendix FEIR-3, of this Final EIR.

²⁰ OEHHA (Feb 2015) Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments, http://oehha.ca.gov/air/hot_spots/hotspots2015.html

²¹ *Ibid.*, p. 8-18.

Response to Comment No. 7-62

SWAPE is referred to SCAQMD guidance (*Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*) which provides clarification as to when an HRA may be warranted. As discussed in Response to Comment No. 7-61, the Project is estimated to generate approximately 36 trucks per day (conservatively assumed to all be diesel trucks). Based on SCAQMD guidance, there was no quantitative analysis required for future cancer risk within the Project Area as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*. Specifically, the Project is not considered to be a substantial source of diesel particulate matter warranting a refined HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating transport refrigeration units.

Based on the above information, the Draft EIR correctly concluded that an operational HRA was not warranted.

Comment No. 7-63

Furthermore, once construction of the Project is complete, the Project will operate for a long period of time. During operation, the Project will generate vehicle trips, which will generate additional exhaust emissions, thus continuing to expose nearby sensitive receptors to emissions. The OEHHA document recommends that exposure from projects lasting more than 6 months should be evaluated for the duration of the project, and recommends that an exposure duration of 30 years be used to estimate individual cancer risk for the maximally exposed individual resident (“MEIR”).²² Even though we were not provided with the expected lifetime of the Project, we can reasonably assume that the Project will operate for at least 30 years, if not more. Therefore, health risks from Project operation should have also been evaluated by the DEIR, as a 30-year exposure duration vastly exceeds the 2-month and 6-month requirements set forth by OEHHA. These recommendations reflect the most recent health risk policy, and as such, an updated assessment of health risks to nearby sensitive receptors from Project construction and operation should be included in an updated DEIR for the project.

²² *Supra*, fn 20, p. 8-6, 8-15.

Response to Comment No. 7-63

As discussed in Response to Comment No. 7-44, including sensitive receptors identified in the related projects (Table III-1 of the Draft EIR) as part of the evaluation of Project-related localized construction impacts would be considered speculative under CEQA given the uncertainty and timing of completion of the related projects. This is especially true given the recent COVID-19 pandemic that has substantially changed economic/land use development forecasts for the foreseeable future. For the 100 West Ocean Boulevard related project, CEQA documentation recently became available through the City which provides a proposed construction schedule with a construction start date of February 11, 2019 and a buildout year of 2021. It is now clear that the construction schedule and buildout year will be delayed given that final project approval has not yet occurred as of this writing. A conservative construction start date of February 11, 2021 would result in overlapping occupancy of the related project and construction of the proposed Project over an approximate six month duration. For the 207 Seaside Way related project, construction is currently underway. It may be possible that buildout of the related project would be completed and operational while the proposed Project is under construction. Given that there is a large intervening structure between the two sites, pollutant concentrations (e.g., PM₁₀) would be reduced at the 207 Seaside Way site such that a 100-meter receptor distance analyzed in the Draft EIR is likely representative of potential impacts at this receptor. Nonetheless and in response to Comment No. 7-44, further consideration of the 110 West Ocean Boulevard and 207 Seaside Way sites using a receptor distance of 30 meters and 75 meters, respectively are provided in this Final EIR for purposes of evaluating air quality impacts.

Although there is no requirement or guidance for preparing a construction HRA by SCAQMD or the City, for informational purposes, an HRA has been prepared in response to this comment to demonstrate that no significant health risk impacts would occur from construction of the Project. Both the 110 West Ocean Boulevard and 207 Seaside Way related projects were considered in the construction HRA. The HRA demonstrates that health risks from the Project would be a maximum of 8.1 in one million for residential uses to the east of the Project site, which is below the applicable significance threshold of 10 in one million. It is noted that this risk assumes an outdoor exposure for the entire length of construction and does not account for any reductions from the time spent indoors where air quality tends to be better. Thus, the analysis is conservative. Furthermore, as discussed in Response to Comment No. 7-60, an operational HRA is not warranted for this Project, consistent with SCAQMD guidance.

Comment No. 7-64

Finally, as discussed above, the DEIR states that the “nearest sensitive receptors to Project construction activities are residential uses located west of the site (approximately

450 feet or roughly 150 meters). However, this analysis conservatively assumes an approximately 100-meter or 328-foot receptor distance” (p. I-20). This is incorrect, as the DEIR includes a table with nearby projects, including several closer sensitive receptors (see excerpt below) (Table III-1, p. III-6).

Table III-1
List of Related Projects

Map No.	Project Location	Project Description	Use	Size
1	1628–1724 E. Ocean Blvd.	Add 51-unit condominium to a 47-unit motel.	Condominiums	51 du
2	245 W. Broadway	New mixed-use project on 1.7-acre site.	Residential	219 du
3	2010 Ocean Blvd.	New mixed-use project with shared amenities on a 1.04-acre site.	Retail	6,000 sf
			Residential	33 du
3	2010 Ocean Blvd.	New mixed-use project with shared amenities on a 1.04-acre site.	Hotel	72 rm
			Residential	33 du
4	207 Seaside Way	Apartment building with two levels of parking.	Apartments	117 du
5	100 Aquarium Way	Expand existing aquarium front by 22,642 sf.	Theater Expansion	22,642 sf 300 seats
6	495 The Promenade North	Mixed-Use	Apartments	20 du
			Retail	5,200 sf
7	110 W. Ocean Blvd.	Adaptive reuse conversion of existing 15-story Ocean Center Building from office use to residential. Re-establish retail use on Ocean & Pine.	Residential	74 du
8	150 W. Ocean Blvd.	Apartments	Apartments	216 du

As you can see in the excerpt above, the DEIR includes a list of several nearby projects. Review of these locations in Google Earth reveals that the projects located at 110 W. Ocean Blvd and 207 Seaside Way are 30 meters and 75 meters from the Project site, respectively. These receptors would be exposed during construction of the proposed Project that will require the use of off-road equipment and heavy-duty on-road hauling trucks, which both emit diesel particulate matter (“DPM”) emissions, a type of TAC. Furthermore, once operational, the Project will generate additional vehicle trips that will emit substantial amounts of DPM emissions. Therefore, the health risk from the Project’s construction and operational emissions should have been evaluated by the DEIR. By failing to do so, the Project’s air quality impacts are not adequately addressed or evaluated.

Response to Comment No. 7-64

Please refer to Response to Comment No. 7-44 regarding the related projects referenced in the comment. As discussed therein, both the 110 West Ocean Boulevard and 207 Seaside Way related projects are analyzed in this Final EIR for purposes of evaluating air quality impacts.

Comment No. 7-65**Updated Analysis Demonstrates Significant Health Risk**

In an effort to demonstrate the potential risk posed by Project construction and operation to nearby sensitive receptors, we prepared a simple screening-level HRA. The results of our assessment, as described below, demonstrate that the Project will have a significant health risk.

In order to conduct our screening-level risk assessment we relied upon AERSCREEN (output files attached hereto as Exhibit B), which is a screening level air quality dispersion model.²³ The model replaced SCREEN3, and AERSCREEN is included in the OEHHA²⁴ and the California Air Pollution Control Officers Associated (CAPCOA)²⁵ guidance as the appropriate air dispersion model for Level 2 health risk screening assessments (“HRSA”). A Level 2 HRSA utilizes a limited amount of site-specific information to generate maximum reasonable downwind concentrations of air contaminants to which nearby sensitive receptors may be exposed. If an unacceptable air quality hazard is determined to be possible using AERSCREEN, a more refined modeling approach is required prior to approval of the Project.

We prepared a preliminary HRA of the Project’s health-related impact to sensitive receptors using the annual PM10 exhaust estimates from SWAPE’s annual CalEEMod output files. As previously discussed, the closest sensitive residential receptor is approximately 30 meters from the Project site boundary (Table III-1, p. III-6). Consistent with recommendations set forth by OEHHA, we used a residential exposure duration of 30 years, starting from the 3rd trimester stage of life. We also assumed that construction and operation of the Project would occur in quick succession, with no gaps between each Project phase. The SWAPE annual CalEEMod model’s annual emissions indicate that construction activities will generate approximately 375.8 pounds of DPM over the 30-month, or 912-day construction period. The AERSCREEN model relies on a continuous average emission rate to simulate maximum downward concentrations from point, area, and volume emission sources.

²³ U.S. EPA (April 2011) AERSCREEN Released as the EPA Recommended Screening Model, http://www.epa.gov/ttn/scram/guidance/clarification/20110411_AERSCREEN_Release_Memo.pdf.

²⁴ Supra, fn 20.

²⁵ CAPCOA (July 2009) Health Risk Assessments for Proposed Land Use Projects, http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA_HRA_LU_Guidelines_8-6-09.pdf.

Response to Comment No. 7-65

This comment summarizes the findings of a screening level analysis prepared by SWAPE. Specific comments regarding this screening level analysis are provided below. The SWAPE analysis and related technical appendices were carefully reviewed for purposes of considering the potential of the Project to result in health risk impacts. Based on this evaluation, multiple methodological flaws were identified that substantially undermine the accuracy of the SWAPE results as compared with the more refined, site-specific HRA prepared in response to these comments. The most important of these issues are detailed here and then discussed as needed in other specific responses to comments.

A key limitation with the SWAPE analysis is that it relied on a “screening level” model to evaluate health risks. A screening level analysis can be appropriate to assess whether more detailed, refined modeling assessment is needed. Screening models typically rely on rough, very conservative assumptions to check if a project *could* cause a significant health impact. If, based on the screening, there is no potential for a significant impact, then no additional analysis is required. In this way, screening models can help save time and money by eliminating the need for some projects to complete more expensive, time-consuming dispersion modeling.

This use of screening models is consistent with industry standard and agency guidance. As recommended by OEHHA at page 4-25 of *The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments* states “Screening models are normally used when no representative meteorological data are available and may be used as a preliminary estimate to determine if a more detailed assessment is warranted.”¹⁹

As noted above, screening level results that show a potential significant impact are only relevant to the extent that to demonstrate that SWAPE should have then conducted additional analysis using a refined model, which, notably, is exactly what is provided in the HRA prepared in response to these comments. As discussed therein, health risks were analyzed consistent with SCAQMD methodology and used AERMOD to complete refined dispersion modeling. AERMOD accounts for a variety of refined, site-specific conditions that facilitate a more accurate assessment of Project impacts compared to the less refined AERSCREEN screening model used in the SWAPE analysis. The most important differences between AERSCREEN and AERMOD are the following:

¹⁹ California Environmental Protection Agency. *Air Toxics Hot Spots Program Risk Assessment Guidelines, The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments*. Available at www.oehha.ca.gov/air/hot_spots/pdf/HRAfinalnoapp.pdf, accessed August 2014.

- **Meteorological Data**—The AERSCREEN model uses user-defined conditions, which assume worst-case meteorological conditions occurring 24 hours per day, 365 days per for the entire construction and operation duration along with the maximum daily emissions occurring each of those days. The HRA prepared in response to these comments instead used AERMOD which allows for SCAQMD representative meteorological data (Long Beach Airport) to be used in calculation of annual concentrations. This SCAQMD meteorological data provides hourly conditions (e.g., wind speed, wind direction, and stability class) over a five-year period (43,800 hours). With these conditions, the AERMOD model is more representative of likely Project impacts compared to the AERSCREEN model.
- **Site-Specific Conditions**—AERMOD allows for analysis of multiple volume sources and to account for complex terrain in the area (elevation) which is required to adequately represent Project construction and operation. The use of a single rectangular source with a release height of 3 meters to represent construction and operational activities provided in the SWAPE analysis does not adequately represent the Project site, does not account for complex terrain conditions, and likely overstates emissions because of the plume interaction with terrain. In addition, a volume source and not an area source is the type of source recommended by the SCAQMD for modeling construction equipment and diesel truck exhaust emissions (SCAQMD LST Guidelines). In addition, the SCAQMD LST Guidelines recommend a 5-meter release height instead of 3 meters, which would also overestimate potential concentrations. By accounting for the complex terrain around the Project site, the AERMOD model is more representative of likely Project impacts compared to the AERSCREEN model.

Consequently, the coarser AERSCREEN evaluation provides a much less accurate assessment of Project health risks compared to the refined AERMOD evaluation. Moreover, as discussed in the specific comments below, the SWAPE screening level analysis was not performed in accordance with requirements included in SCAQMD's LST methodology and OEHHA's guidance. The analysis also did not account for the following: (1) site-specific conditions; (2) use of a refined dispersion model; and (3) use of SCAQMD mandated meteorological data from the closest/most representative meteorological monitoring site within the Project area. If the SWAPE analysis accounted for the guidance and data discussed above, then the results would have been substantially less.

Accordingly, potential health risk impacts from the Project to nearby sensitive uses (e.g., nearby residences) as the result of proposed construction activities are more accurately identified by the AERMOD evaluation included the HRA prepared in response to these comments. As demonstrated by the analysis therein, the Project would not result in a significant health risk impact during combined construction and operation. The HRA prepared in response to these comments demonstrates that health risks from the Project would be a maximum of 8.1 in one million for residences east of the Project Site, which is below the applicable significance threshold of 10 in one million.

Comment No. 7-66

To account for the variability in equipment usage and truck trips over Project construction, we calculated an average DPM emission rate by the following equation.

$$\text{Emission Rate} \left(\frac{\text{grams}}{\text{second}} \right) = \frac{375.8 \text{ lbs}}{912 \text{ days}} \times \frac{453.6 \text{ grams}}{\text{lbs}} \times \frac{1 \text{ day}}{24 \text{ hours}} \times \frac{1 \text{ hour}}{3,600 \text{ seconds}} = 0.002163 \text{ g/s}$$

Using this equation, we estimated a construction emission rate of 0.002163 grams per second (g/s). The SWAPE's annual CalEEMod output files indicate that operational activities will generate approximately 194.8 pounds of DPM per year over 27.5 years of operation. Applying the same equation used to estimate the construction DPM emission rate, we estimated the following emission rate for Project operation.

$$\text{Emission Rate} \left(\frac{\text{grams}}{\text{second}} \right) = \frac{194.8 \text{ lbs}}{365 \text{ days}} \times \frac{453.6 \text{ grams}}{\text{lbs}} \times \frac{1 \text{ day}}{24 \text{ hours}} \times \frac{1 \text{ hour}}{3,600 \text{ seconds}} = 0.002802 \text{ g/s}$$

Using this equation, we estimated an operational emission rate of 0.002802 g/s. Construction and operation were simulated as a 1.36-acre rectangular area source in AERSCREEN, with dimensions of 106 meters by 52 meters. A release height of three meters was selected to represent the height of stacks of operational equipment and other heavy-duty vehicles, and an initial vertical dimension of one and a half meters was used to simulate instantaneous plume dispersion upon release. An urban meteorological setting was selected with model-default inputs for wind speed and direction distribution.

Response to Comment No. 7-66

The SWAPE assessment substantially overestimated potential diesel exhaust emissions from construction of the proposed Project and as a result is completely inaccurate. Please refer to Response to Comment No. 7-59 for a detailed discussion of the errors within SWAPE's calculation of construction emissions (e.g., double counting construction equipment mix). SWAPE incorrectly used the combination of both on-site and off-site emissions (regional emissions) to represent on-site emissions (localized emissions). This assumption is the equivalent of having all diesel delivery and haul trucks that would actually travel regionally to and from the Project site (up to 75 miles round trip) exclusively on the Project site. Furthermore, it assumes that all delivery trucks would be diesel. This assumption grossly overestimates the annual average construction emissions that would occur over the duration of construction. Furthermore, the analysis failed to include Mitigation Measure AIR-1 (Tier 4 Final equipment) which would reduce on-site diesel particulate emissions from off-road equipment by approximately 90 to 95 percent.

The operational emission rate of 194.8 lbs/year of diesel exhaust emissions is similarly based on the unmitigated regional operational results and assumes that these emissions occur each year for 27.5 years. This assumption suffers from the problem identified above for construction (combination of both on-site and off-site emissions). This assumption is the equivalent of having all vehicular trips that would actually travel regionally to and from the Project site exclusively on the Project site. Compounding this mistake is SWAPE's assumption that all of these emissions would be diesel. Diesel emissions represent a small fraction of the overall fleet mix. Furthermore, the SWAPE analysis assumed 27.5 years of operation, but held the emission factors constant to the buildout year. Thus, potential impacts would be overstated because it does not represent an average of emissions over the 27.5 years by excluding improvements in the vehicle fleet mix as a result of state mandates over time. As an example, the On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation requires diesel trucks and buses that operate in California to be upgraded to reduce emissions. Newer heavier trucks and buses must meet PM filter requirements beginning January 1, 2012. Lighter and older heavier trucks must be replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent. In addition, as discussed in Response to Comment No. 7-59, SWAPE's estimation of mobile source emissions were calculated incorrectly as implementation of CAPCOA measures cited in Section IV.C, Greenhouse Gas Emissions, of the Draft EIR (Page IV.C-67) were not input into the model correctly. The SWAPE CalEEMod analysis overestimated mobile source emissions by approximately 39 percent with implementation of CAPCOA reduction measures (e.g., proximity to public transportation). Furthermore, SWAPE completely misrepresented pollutant emissions as DPM from energy sources that represent approximately 62 percent of the total exhaust emissions in SWAPE's CalEEMod output sheet. These emissions are from use of natural gas on-site or electricity produced offsite at power plants (largely using natural gas). SWAPE did not provide any supporting documentation as to why it would be appropriated to analyze the particulate matter from natural gas combustion as DPM.

As discussed above, the SWAPE analysis use of AERSCREEN provides a much less accurate assessment of Project health risks compared to the refined AERMOD evaluation prepared in response to these comments. AERMOD allows for analysis of multiple volume sources and to account for complex terrain in the area (elevation) which is required to adequately represent Project construction and operation. The use of a single rectangular source with a release height of 3 meters to represent construction and operational activities provided in the SWAPE analysis does not adequately represent the Project site, does not account for complex terrain conditions, and likely overstates emissions because of the plume interaction with terrain. In addition, a volume source and not an area source is the type of source recommended by SCAQMD for modeling construction equipment and diesel truck exhaust emissions (SCAQMD LST Guidelines). In addition, the SCAQMD LST Guidelines recommend a 5-meter release height instead of 3 meters, which would also overestimate potential concentrations. By accounting for the

actual terrain around the Project site, the AERMOD model is more representative of likely Project impacts compared to the AERSCREEN model.

Comment No. 7-67

The AERSCREEN model generates maximum reasonable estimates of single-hour DPM concentrations from the Project Site. EPA guidance suggests that in screening procedures, the annualized average concentration of an air pollutant be estimated by multiplying the single-hour concentration by 10%.²⁶ For example, for the closest sensitive receptor the single-hour concentration estimated by AERSCREEN for Project construction is approximately 7.921 $\mu\text{g}/\text{m}^3$ DPM at approximately 25 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.7921 $\mu\text{g}/\text{m}^3$ for Project construction at the closest sensitive receptor. For Project operation, the single-hour concentration at the closest sensitive receptor estimated by AERSCREEN is approximately 10.26 $\mu\text{g}/\text{m}^3$ DPM at approximately 25 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 1.026 $\mu\text{g}/\text{m}^3$ for Project operation at the closest sensitive receptor.

²⁶ U.S. EPA (October 1992) Screening Procedures for Estimating the Air Quality Impact of Stationary Sources Revised, http://www.epa.gov/ttn/scram/guidance/guide/EPA-454R-92-019_OCR.pdf.

Response to Comment No. 7-67

As discussed above, the SWAPE analysis use of AERSCREEN provides a much less accurate assessment of Project health risks compared to the refined AERMOD evaluation included in the HRA prepared in response to these comments. The SWAPE analysis assumes worst-case conditions occur 24 hours per day, 365 days for 30 years (worst-case hourly wind speed, same direction, and stability condition) along with the maximum daily emissions occurring each of those days, assumptions that substantially overestimate actual Project emissions. SWAPE applied a correction factor in the SWAPE analysis to convert the maximum 1-hour concentration average to an annual concentration. However, even then the SWAPE screening analysis applied the maximum factor of 0.1 instead of an average of 0.08 recommended in OEHHA guidance (Table 4.3, Recommended Factors to Convert Maximum 1-Hour Concentration to Other Averaging Periods, *The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments*). Consequently, the already conservative screening analysis was made inaccurate (higher concentration) because SWAPE did not follow the OEHHA guidance. The annualized average construction concentration predicted by SWAPE was 0.7921 $\mu\text{g}/\text{m}^3$.

The HRA prepared in response to these comments instead used AERMOD, which allows representative meteorological data to be used in calculation of annual

concentrations. The meteorological monitoring station most representative of the Project Site is the Long Beach Airport Station. This SCAQMD meteorological data provides hourly conditions (e.g., wind speed, wind direction, and stability class) over a five-year period (43,800 hours). The use of AERMOD, which is consistent with SCAQMD recommended methodology for a detailed analysis, provides a concentration $0.026 \mu\text{g}/\text{m}^3$ in comparison to AERSCREEN, which was used in the SWAPE analysis. In summary, use of AERSCREEN in the SWAPE analysis does not adequately characterize potential impacts from the Project, and any conclusions made based on these screening results are flawed and inferior to the more refined dispersion modeling prepared in response to these comments.

Comment No. 7-68

Furthermore, the closest sensitive receptor is not necessarily the receptor experiencing the highest concentration of Toxic Air Contaminant (“TAC”) exposure. AERSCREEN models emissions at different distances, with the maximum one-hour concentration increasing and then decreasing with distance. As a result, the closest sensitive receptor is not always the receptor experiencing the maximum exposure. In this case, for our construction and operational AERSCREEN models, the maximum exposed individual receptor (“MEIR”) is located at 50 meters from the Project site, with maximum single-hour DPM concentrations of $8.742 \mu\text{g}/\text{m}^3$ and $11.32 \mu\text{g}/\text{m}^3$, respectively. These exposures are higher than both at the closest sensitive receptor to the Project site, described previously. Multiplying these single-hour concentrations by 10%, we get annualized average concentrations of $0.8742 \mu\text{g}/\text{m}^3$ and $1.132 \mu\text{g}/\text{m}^3$, respectively.

Response to Comment No. 7-68

SWAPE’s analysis shows that maximum impacts are not at the fenceline, but are at a more distant location which is not consistent with correct modeling practices. Generally speaking, area sources modeled in AERSCREEN or AERMOD are not complicated sources that result in maximum impacts at the fenceline and dissipate at further distances. It is more common to have maximum impacts at a distance further from the fenceline for exhaust stacks as there are other factors that alter dispersion such as stack parameters (stack height, velocity, and temperature), meteorological conditions (taller stacks can be impacted by temperature inversions), cavity effects, and building-related considerations (e.g., wake region). Since SWAPE’s analysis is counter to the norms of modeling outputs for areas sources, it is very likely that the modeling is suspect. Regardless, this Final EIR provides a detailed HRA for construction activities and considers sensitive receptors within the Project area. As shown therein, health risk impacts would be less than significant.

Although there is no requirement or guidance for preparing a construction HRA by SCAQMD or the City, for informational purposes, an HRA has been prepared in response to this comment to demonstrate that no significant health risk impacts would occur from

construction of the Project. The HRA is included as Appendix FEIR-2 of this Final EIR. As shown therein, health risk impacts would be less than significant.

Comment No. 7-69

We calculated the excess cancer risk to the residential receptors both maximally exposed and located closest to the Project site using applicable HRA methodologies prescribed by OEHHA and the SCAQMD. Consistent with the construction schedule proposed by the DEIR, the annualized average concentration for construction was used for the entire third trimester of pregnancy (0.25 years), the entire infantile stage of life (0–2 years), and the first 0.25 years of the child stage of life (2–16) years. The annualized average concentration for operation was used for the remainder of the 30-year exposure period, which makes up the remainder of the child stage of life (2–16 years) and the entire adult stage of life (16–30 years). Consistent with OEHHA, SCAQMD, Bay Area Air Quality Management District (“BAAQMD”), and San Joaquin Valley Unified Air Pollution Control District (“SJVAPCD”) guidance, we used Age Sensitivity Factors (“ASFs”) to account for the heightened susceptibility of young children to the carcinogenic toxicity of air pollution.^{27,28,29,30} According to the most updated guidance, quantified cancer risk should be multiplied by a factor of ten during the third trimester of pregnancy and during the first two years of life (infant). Furthermore, in accordance with guidance set forth by OEHHA, we used the 95th percentile breathing rates for infants.³¹ Finally, according to SCAQMD guidance, we used a Fraction of Time At Home (“FAH”) Value of 1 for the 3rd trimester and infant receptors.³² We used a cancer potency factor of $1.1 \text{ (mg/kg-day)}^{-1}$ and an averaging time of 25,550 days. The results of our calculations are shown in the tables on the following page.

The Closest Exposed Individual at a Residential Receptor (25 meters)

Activity	Duration (years)	Concentration (ug/m3)	Breathing Rate (L/kg-day)	ASF	Cancer Risk
Construction	0.25	0.7921	361	10	1.1E-05
3rd Trimester Duration	0.25			3rd Trimester Exposure	1.1E-05
Construction	2.00	0.7921	1090	10	2.6E-04
Infant Exposure Duration	2.00			Infant Exposure	2.6E-04
Construction	0.25	0.7921	572	3	5.1E-06
Operation	13.75	1.026	572	3	3.6E-04
Child Exposure Duration	14.00			Child Exposure	3.7E-04
Operation	14.00	1.026	261	1	4.1E-05
Adult Exposure Duration	14.00			Adult Exposure	4.1E-05
Lifetime Exposure Duration	30.00			Lifetime Exposure	6.8E-04

The Maximum Exposed Individual at a Residential Receptor (MEIR) (50 meters)

Activity	Duration (years)	Concentration (ug/m3)	Breathing Rate (L/kg-day)	ASF	Cancer Risk
Construction	0.25	0.8742	361	10	1.2E-05
3rd Trimester Duration	0.25			3rd Trimester Exposure	1.2E-05
Construction	2.00	0.8742	1090	10	2.9E-04
Infant Exposure Duration	2.00			Infant Exposure	2.9E-04
Construction	0.25	0.8742	572	3	5.7E-06
Operation	13.75	1.132	572	3	4.0E-04
Child Exposure Duration	14.00			Child Exposure	4.1E-04
Operation	14.00	1.132	261	1	4.5E-05
Adult Exposure Duration	14.00			Adult Exposure	4.5E-05
Lifetime Exposure Duration	30.00			Lifetime Exposure	7.5E-04

- ²⁷ OEHHA (Feb 2015) Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments, <https://oehha.ca.gov/media/downloads/crn/2015guidancemanual.pdf>.
- ²⁸ SCAQMD (March 2019) Draft Environmental Impact Report (DEIR) for the Proposed The Exchange (SCH No. 2018071058), p. 4, <http://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2019/march/RVC190115-03.pdf?sfvrsn=8>.
- ²⁹ BAAQMD (May 2017) California Environmental Quality Act Air Quality Guidelines, p. 56, http://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en; see also BAAQMD (May 2011) Recommended Methods for Screening and Modeling Local Risks and Hazards, p. 65, 86, <http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CEQA/BAAQMD%20Modeling%20Approach.ashx>.
- ³⁰ SJVAPCD (May 2015) Update to District's Risk Management Policy to Address OEHHA's Revised Risk Assessment Guidance Document, p. 8, 20, 24, <https://www.valleyair.org/busind/pto/staff-report-5-28-15.pdf>.
- ³¹ SCAQMD (Jun 2015) Supplemental Guidelines for Preparing Risk Assessments for the Air Toxics 'Hot Spots' Information and Assessment Act, p. 19, <http://www.aqmd.gov/docs/default-source/planning/risk->

[assessment/ab2588-risk-assessment-guidelines.pdf?sfvrsn=6](https://www.scaqmd.gov/media/downloads/crn/2015guidancemanual.pdf); see also OEHHA (Feb 2015) Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments, <https://oehha.ca.gov/media/downloads/crn/2015guidancemanual.pdf>.

- ³² SCAQMD (Aug 2017) Risk Assessment Procedures for Rules 1401, 1401.1, and 212, p. 7, http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1401/riskassessmentprocedures_2017_080717.pdf.

Response to Comment No. 7-69

This comment misconstrues guidance from SCAQMD. As discussed above in Response to Comment No. 7-61, SCAQMD is currently evaluating the new OEHHA Guidance Manual and has not developed any recommendations on its use for CEQA analyses for potential construction impacts. Moreover, the City, as lead agency, has not adopted the Guidance Manual as part of its CEQA methodology.

This comment correctly identifies that the OEHHA's new Guidance Manual provides for the use of Age Sensitivity Factors (ASFs). Use of these factors would not be applicable to this Project, however, as neither the City nor SCAQMD has developed recommendations on whether these factors should be used for CEQA analyses of potential construction impacts, as discussed below. Furthermore, a review of relevant guidance was conducted to determine applicability of the use of early life exposure adjustments to identified carcinogens. The U.S. Environmental Protection Agency provides guidance relating to the use of early life exposure adjustment factors (Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F) whereby adjustment factors are only considered when carcinogens act "through the mutagenic mode of action." The U.S. Environmental Protection Agency has identified 19 compounds that elicit a mutagenic mode of action for carcinogenesis. For diesel particulates, polycyclic aromatic hydrocarbons (PAHs) and their derivatives, which are known to exhibit a mutagenic mode of action, comprise less than 1 percent of the exhaust particulate mass. To date, the U.S. Environmental Agency reports that whole diesel engine exhaust has not been shown to elicit a mutagenic mode of action.²⁰ Therefore, early life exposure adjustments are neither required nor appropriate, and were therefore not considered in the HRA provided in Appendix FEIR-2.

²⁰ *United States Environmental Protection Agency, 2006. Memorandum - Implementation of the Cancer Guidelines and Accompanying Supplemental Guidance—Science Policy Council Cancer Guidelines Implementation Workgroup, www.epa.gov/osa/memoranda-about-implementation-cancer-guidelines-and-accompanying-supplemental-guidance-science, accessed January 30, 2020.*

Comment No. 7-70

The excess cancer risk posed to adults, children, infants, and during the third trimester of pregnancy at the closest sensitive receptor, located approximately 25 meters away, over the course of Project construction and operation, are approximately 41, 370, 260, and 11 in one million, respectively. The excess cancer risk over the course of a residential lifetime (30 years) at the closest receptor is approximately 680 in one million. Furthermore, the excess cancer risk posed to adults, children, infants, and during the third trimester of pregnancy at the maximally exposed receptor, located at 50 meters away over the course of Project construction and operation, are approximately 45, 410, 290, and 12 in one million, respectively. The excess cancer risk over the course of a residential lifetime (30 years) at the maximally exposed receptor (“MEIR”) is approximately 750 in one million. Consistent with OEHHA guidance, exposure was assumed to begin during the 3rd trimester of pregnancy to provide the most conservative estimates of air quality hazards. The adult, child, infant, and lifetime cancer risks all exceed the SCAQMD’s threshold of 10 in one million for both the closest receptor and the MEIR, thus resulting in a potentially significant impact not previously addressed or identified by the DEIR.

Response to Comment No. 7-70

As discussed above in Response to Comment No. 7-66, the SWAPE assessment substantially overestimated potential diesel exhaust emissions from construction and operation of the Proposed Project by misrepresenting regional emissions for localized emissions. The SWAPE analysis is completely inaccurate. In addition, the screening level analysis was not performed in accordance with requirements included in SCAQMD’s LST methodology, which makes it substantially less accurate than the refined dispersion modeling completed in the HRA prepared in response to these comments. Moreover, the SWAPE analysis also did not account for the following: (1) site-specific conditions; (2) use of a refined dispersion model; and (3) use of SCAQMD-mandated meteorological data from the closest/most representative meteorological monitoring site within the Project area. If the SWAPE analysis properly accounted for the guidance and data discussed above, the results would have been much less and below the significance threshold.

Furthermore, the SWAPE analysis used a receptor distance of 30 meters, which represents the 110 West Ocean Boulevard related project. As discussed in Response to Comment No. 7-44, a NOP has yet to be published for that development, with little information known regarding proposed buildout. It is unrealistic to assume that the related project could be built and operational during construction of the proposed Project. However, for the 207 Seaside Way related project, construction is currently underway. It is possible that buildout of the related project would be completed and operational while the proposed Project is under construction.

Although there is no requirement or guidance for preparing a construction HRA by SCAQMD or the City, for informational purposes, an HRA has been prepared in response to this comment to demonstrate that no significant health risk impacts would occur from construction of the Project. The HRA demonstrates that health risks from the Project would be a maximum of 8.1 in one million for residential uses to the east of the Project site, which is below the applicable significance threshold of 10 in one million. It is noted that this risk assumes an outdoor exposure for the entire length of construction and does not account for any reductions from the time spent indoors where air quality tends to be better. Thus, the analysis is conservative. Furthermore, as discussed in Response to Comment No. 7-60, an operational HRA is not warranted for this Project consistent with SCAQMD guidance.

Comment No. 7-71

Furthermore, we conducted a health risk analysis using older OEHHA guidance from 2003.³³ This guidance utilizes a less health protective scenario than what is currently recommended by SCAQMD, the air quality district responsible for the City, and several other air districts in the state. In the 2003 Guidance Manual, OEHHA suggests calculating the excess cancer risk to nearby sensitive receptors without adjusting for the heightened susceptibility of young children to the carcinogenic toxicity of air pollution. Although it is not the most recent or health protective guidance, we have calculated the excess cancer risk to nearby sensitive receptors following OEHHA's 2003 guidance, not adjusting for age sensitivity. All other HRA methodologies are the same as described above. The results of our calculations are shown below.

The Closest Exposed Individual at a Residential Receptor (25 meters)				
Activity	Duration (years)	Concentration (ug/m3)	Breathing Rate (L/kg-day)	Cancer Risk
Construction	0.25	0.7921	361	1.1E-06
<i>3rd Trimester Duration</i>	<i>0.25</i>		<i>3rd Trimester Exposure</i>	<i>1.1E-06</i>
Construction	2.00	0.7921	1090	2.6E-05
<i>Infant Exposure Duration</i>	<i>2.00</i>		<i>Infant Exposure</i>	<i>2.6E-05</i>
Construction	0.25	0.7921	572	1.7E-06
Operation	13.75	1.026	572	1.2E-04
<i>Child Exposure Duration</i>	<i>14.00</i>		<i>Child Exposure</i>	<i>1.2E-04</i>
Operation	14.00	1.026	261	4.1E-05
<i>Adult Exposure Duration</i>	<i>14.00</i>		<i>Adult Exposure</i>	<i>4.1E-05</i>
Lifetime Exposure Duration	30.00		Lifetime Exposure	1.9E-04

The Maximum Exposed Individual at a Residential Receptor (MEIR) (50 meters)				
Activity	Duration (years)	Concentration (ug/m³)	Breathing Rate (L/kg-day)	Cancer Risk
Construction	0.25	0.8742	361	1.2E-06
<i>3rd Trimester Duration</i>	<i>0.25</i>		<i>3rd Trimester Exposure</i>	<i>1.2E-06</i>
Construction	2.00	0.8742	1090	2.9E-05
<i>Infant Exposure Duration</i>	<i>2.00</i>		<i>Infant Exposure</i>	<i>2.9E-05</i>
Construction	0.25	0.8742	572	1.9E-06
Operation	13.75	1.132	572	1.3E-04
<i>Child Exposure Duration</i>	<i>14.00</i>		<i>Child Exposure</i>	<i>1.4E-04</i>
Operation	14.00	1.132	261	4.5E-05
<i>Adult Exposure Duration</i>	<i>14.00</i>		<i>Adult Exposure</i>	<i>4.5E-05</i>
Lifetime Exposure Duration	30.00		Lifetime Exposure	2.1E-04

³³ OEHHA (Aug 2003) The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments, <https://oehha.ca.gov/media/downloads/crnrr/hrafinalnoapp.pdf>.

Response to Comment No. 7-71

As discussed above in Response to Comment No. 7-69, this comment misconstrues guidance from SCAQMD. As discussed above in Response to Comment No. 7-61, SCAQMD is currently evaluating the new OEHHA Guidance Manual and has not developed any recommendations on its use for CEQA analyses for potential construction impacts. Moreover, the City, as lead agency, has not adopted the Guidance Manual as part of its CEQA methodology.

Comment No. 7-72

The excess cancer risk posed to adults, children, infants, and during the third trimester of pregnancy at the closest receptor, located approximately 25 meters away, over the course of Project construction and operation, are approximately 41, 120, 26, and 1.1 in one million, respectively. The excess cancer risk over the course of a residential lifetime (30 years) at the closest receptor is approximately 190 in one million. Furthermore, the excess cancer risk posed to adults, children, infants, and during the third trimester of pregnancy at the closest exposed receptor, located at 50 meters away over the course of Project construction and operation, are approximately 45, 140, 29, and 1.2 in one million, respectively. The excess cancer risk over the course of a residential lifetime (30 years) at the maximally exposed receptor (“MEIR”) is approximately 210 in one million. Consistent with OEHHA guidance, exposure was assumed to begin during the 3rd trimester of pregnancy to provide the most conservative estimates of air quality hazards. *Even when calculating a less health protective HRA using outdated OEHHA guidelines, the adult, child,*

infant, and lifetime cancer risks significantly exceed the SCAQMD threshold of 10 in one million. This again reveals potentially significant impacts not previously addressed or identified by the DEIR.

Response to Comment No. 7-72

This additional SWAPE calculation of risk is flawed for the same reasons discussed above in Response to Comment No. 7-70. In Comment No. 7-70, SWAPE provides calculations using both the 2003 and 2015 OEHHA health risk guidance. Regardless of which OEHHA guidance is used the SWAPE assessment substantially overestimated potential diesel exhaust emissions from construction and operation of the proposed Project by misrepresenting regional emissions for localized emissions. The SWAPE analysis is inaccurate. In addition, the screening level analysis was not performed in accordance with requirements included in SCAQMD's LST methodology, which makes it substantially less accurate than the refined dispersion modeling completed in the HRA prepared in response to these comments. Moreover, the SWAPE analysis also did not account for the following: (1) site-specific conditions; (2) use of a refined dispersion model; and (3) use of SCAQMD-mandated meteorological data from the closest/most representative meteorological monitoring site within the Project area. If the SWAPE analysis properly accounted for the guidance and data discussed above, then the results would have been much less and below the significance threshold.

The HRA demonstrates that health risks from the Project would be a maximum of 8.1 in one million for residential uses to the east of the Project Site, which is below the applicable significance threshold of 10 in one million. It is noted that this risk assumes an outdoor exposure for the entire length of construction and does not account for any reductions from the time spent indoors where air quality tends to be better. Thus, the analysis is conservative. Furthermore, as discussed in Response to Comment No. 7-61, an operational HRA is not warranted for this Project consistent with SCAQMD guidance.

Comment No. 7-73

An agency must include an analysis of health risks that connects the Project's air emissions with the health risk posed by those emissions. Our analysis represents a screening-level HRA, which is known to be conservative and tends to err on the side of health protection.³⁴ The purpose of the screening-level construction HRA shown above is to demonstrate the link between the proposed Project's emissions and the potential health risk. Our screening-level HRA demonstrates that construction of the Project could result in a potentially significant health risk impact, when correct exposure assumptions and up-to-date, applicable guidance are used. Therefore, since our screening-level construction HRA indicates a potentially significant impact, the DEIR should include a reasonable effort to connect the Project's air quality emissions and the potential health

risks posed to nearby receptors. Thus, an updated DEIR should include a quantified air pollution model as well as an updated, quantified refined health risk assessment which adequately and accurately evaluates health risk impacts associated with both Project construction and operation.

³⁴ *Supra*, fn 20, p. 1-5.

Response to Comment No. 7-73

As discussed above in Response to Comment No. 7-72, although there is no requirement or guidance for preparing a construction HRA by SCAQMD or the City, for informational purposes, an HRA has been prepared in response to this comment to demonstrate that no significant health risk impacts would occur from construction of the Project. The HRA demonstrates that health risks from the Project would be a maximum of 8.1 in one million for residential uses to the east of the Project site, which is below the applicable significance threshold of 10 in one million. It is noted that this risk assumes an outdoor exposure for the entire length of construction and does not account for any reductions from the time spent indoors where air quality tends to be better. Thus, the analysis is conservative. Furthermore, as discussed in Response to Comment No. 7-60, an operational HRA is not warranted for this Project consistent with SCAQMD guidance.

Comment No. 7-74

Greenhouse Gas

Failure to Adequately Evaluate the Project's Greenhouse Gas Impacts

The DEIR determines that the Project's GHG impact would be less than significant as a result of consistency with the 2008 CARB Climate Change Scoping Plan and updates, the Southern California Association of Governments' (SCAG) 2016–2014 Regional Transportation Plan/Sustainable Community Strategies (RTP/SCS), and the City of Long Beach's Sustainable City Action Plan (p. I-42). Specifically, the DEIR states,

“Thus, given the Project's consistency with state, SCAG and City of Long Beach GHG emission reduction goals and objectives, the Project would not conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of GHGs. In the absence of adopted standards and established significance thresholds, and given this regulatory consistency, it is concluded that the Project's impacts with respect to GHG emissions would be less than significant and would not be cumulatively considerable” (p. I-49).

Response to Comment No. 7-74

This comment providing a summary of the plan consistency analysis in Section IV.C, Greenhouse Gas Emissions, of the Draft and introduces specific methodology comments which are addressed in Response to Comment Nos. 7-75 through 7-106. This comment is noted for the record and will be forwarded to the decision-makers for review and consideration.

Comment No. 7-75

However, the above claim is entirely incorrect because:

- (1) The California Air Resources Board (“CARB”) AB 32 Scoping Plan and the Southern California Association of Governments (“SCAG”) Regional Transportation Plan/Sustainable Community Strategies (“RTP/SCS”) cannot be relied upon to determine Project significance;
- (2) Compliance with the City of Long Beach’s Sustainable City Action Plan cannot be relied upon to determine Project significance;
- (3) The DEIR fails to adequately demonstrate Project compliance with the 2017 Scoping Plan and SCAG RTP/SCS;
- (4) The EIR Fails to Demonstrate Additionality,
- (5) Notwithstanding the DEIR’s use of incorrect and unsubstantiated qualitative analysis to underestimate the Project’s GHG emissions, it nevertheless demonstrates the Project exceeds bright-line and efficiency thresholds numeric thresholds—some of which are proposed and even used by the City for other hotel projects;
- (6) An updated, CalEEMod-compliant qualitative analysis of the Project’s GHG emissions shows the Project will greatly exceed applicable bright-line and efficiency thresholds, thus, resulting in a significant impact that was not previously identified or addressed by the DEIR; and
- (7) The DEIR’s failure to apply the SCAQMD’s bright-line and efficiency thresholds to Project emissions is inconsistent with evolving scientific knowledge and regulatory schemes.

Response to Comment No. 7-75

This comment claims that the greenhouse gas analysis is inadequate. Specific issues raised by the commenter are addressed below in Response to Comment Nos. 7-76

through 7-106. Based on the responses therein, the existing analysis is adequate and recirculation is not required.

Comment No. 7-76

1) CARB's AB 32 Scoping Plans and SCAG's RTP/SCS Contain No Binding, Project-Specific Requirements and, Thus, Cannot Be the Sole Justification for GHG Significance

While CEQA Guidelines § 15064.4(a) provides lead agencies the discretion to conduct a quantitative and/or qualitative analysis, both shall be “based to the extent possible on scientific and factual data” and “must reasonably reflect evolving scientific knowledge and state regulatory schemes.” CEQA Guidelines § 15064.4 subds. (a) & (b). So too, the selection of any threshold must be supported by substantial evidence. CEQA Guidelines § 15064.7(c).

Here, while the DEIR provides a quantitative analysis for “informational purposes only,” the EIR relies solely on a qualitative analysis to determine the Project’s GHG significance (DEIR, p. IV.C-36–IV.C-37). The DEIR’s qualitative analysis seeks to show the Project’s consistency with the CARB’s AB 32 2008 Climate Change Scoping Plan and subsequent updates, SCAG’s 2016–2040 RTP/SCS, and the City’s Sustainable City Action Plan (“SCAP”). However, none of these are qualified plans as envisioned under CEQA Guidelines §§ 15064.4(b)(3), 15183.5(b), and 15064(h)(3).

Response to Comment No. 7-76

The California Supreme Court’s decision published on November 30, 2015, in the *Center for Biological Diversity v. California Department of Fish and Wildlife* (Case No. 217763) (also known as *CBD v. CDFW* or the Newhall Ranch Case) reviewed the methodology used to analyze GHG emissions in an EIR. The California Supreme Court suggested regulatory consistency as a potential “pathway to compliance,” by stating that a lead agency might assess consistency with AB 32’s goal in whole or in part by looking to compliance with regulatory programs designed to reduce GHG emissions from particular activities. The Court recognized that to the extent a project’s design features comply with or exceed the regulations outlined in the *Climate Change Scoping Plan* and adopted by CARB or other state agencies, a lead agency could appropriately rely on their use as showing compliance with performance-based standards adopted to fulfill a statewide plan for the reduction or mitigation of GHG emissions. This approach is consistent with CEQA Guidelines Section 15064, which provides that a determination that an impact is not cumulatively considerable may rest on compliance with previously adopted plans or regulations, for the reduction of GHG emissions.

Section 15064.4 of the CEQA Guidelines recommends that lead agencies quantify GHG emissions of projects and consider several other factors that may be used in the determination of significance of GHG emissions from a project: the extent to which the project may increase or reduce GHG emissions; whether a project exceeds an applicable significance threshold; and the extent to which the project complies with regulations or requirements adopted to implement a reduction or mitigation of GHGs.

CEQA Guidelines Section 15064.4 does not establish a threshold of significance. Lead agencies have the discretion to establish significance thresholds for their respective jurisdictions, and in establishing those thresholds, a lead agency may appropriately look to thresholds developed by other public agencies, or suggested by other experts, such as the California Air Pollution Control Officers Association (CAPCOA), as long as any threshold chosen is supported by substantial evidence (see CEQA Guidelines Section 15064.7(c)). The CEQA Guidelines also clarify that the effects of GHG emissions are cumulative, and should be analyzed in the context of CEQA's requirements for cumulative impact analysis (see CEQA Guidelines Section 15130(f)). As a note, the CEQA Guidelines were amended in response to SB 97. In particular, the CEQA Guidelines were amended to specify that compliance with a GHG emissions reduction plan may appropriately be determined to render a cumulative GHG impact less than significant.

Thus, per CEQA Guidelines Section 15064(h)(3), a project's incremental contribution to a cumulative impact can be found not cumulatively considerable if the project would comply with an approved plan or mitigation program that provides specific requirements that would avoid or substantially lessen the cumulative problem within the geographic area of the project. To qualify, such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. Examples of such programs include a "water quality control plan, air quality attainment or maintenance plan, integrated waste management plan, habitat conservation plan, natural community conservation plans [and] plans or regulations for the reduction of greenhouse gas emissions." Put another way, CEQA Guidelines Section 15064(h)(3) allows a lead agency to make a finding of less than significant impact on GHG emissions if the project complies with adopted programs, plans, policies and/or other regulatory strategies to reduce GHG emissions.

In the absence of any adopted numeric threshold, the significance of the Project's GHG emissions is evaluated consistent with CEQA Guidelines Section 15064.4(b)(2) by considering whether the Project complies with applicable plans, policies, regulations and requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions. For this Project, as a land use development project, the most directly applicable adopted regulatory plan to reduce GHG emissions is the 2016–2040

RTP/SCS, which is designed to achieve regional GHG reductions from the land use and transportation sectors as required by SB 375 and the State's long-term climate goals. This analysis also considers consistency with regulations or requirements adopted by the AB 32 Climate Change Scoping Plan and the City of Long Beach CAP, which meet the criteria for appropriate analysis under the CEQA Guidelines.

The Draft EIR provides a thorough analysis of the Project's GHG impacts within Section IV.C, Greenhouse Gas Emissions. The analysis includes quantification of construction and operational GHG emissions, quantification of applicable reduction measures, and consistency with applicable local plans and policies. However, critically, the threshold of significance adopted by the City for analysis here is qualitative and based on the Project's consistency with appropriate laws, regulations, plans, and policies. Thus, the quantitative data and analysis is provided for informational purposes only, but nonetheless demonstrates with substantial evidence that the Project's consistency with applicable laws, regulations, plans, and policies in fact results in notable GHG emissions reductions.

The Project would surpass the performance-based standards included in the Green Building Code. Specifically, Project Design Feature GHG-PDF-1 would require the design of the new buildings to incorporate features to achieve the sustainability intent of the Silver Rating under the LEED® green building program or equivalent green building standards. In addition, GHG-PDF-1 would require reduction of energy usage by 10 percent over baseline conditions.

Based on this analysis, the Draft EIR correctly concluded that the Project would result in less than significant GHG impacts. No substantial evidence to the contrary has been provided by the Commenter.

Comment No. 7-77

First, CEQA Guidelines § 15064.4(b)(3) allows a lead agency to consider “[t]he extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions (*see, e.g., section 15183.5(b)*).” (Emph. added). When adopting this language, the California Natural Resources Agency (“Resources Agency”) explained in its 2018 Final Statement of Reasons for Regulatory Action (“2018 Statement of Reason”)³⁵ that it explicitly added referenced to section 15183.5(b) because it was “needed to clarify that lead agencies may rely on plans prepared pursuant to section 15183.5 in evaluating a project's [GHG] emissions... [and] consistent with the Agency's Final Statement of Reasons for the addition of section 15064.4, which states that ‘proposed section 15064.4 is intended to be read in conjunction with... proposed section 15183.5. Those sections each indicate that local and regional plans may be developed to reduce GHG emissions.” 2018

Final Statement of Reason, p. 19 (emph. added); see also 2009 Final Statement of Reasons for Regulatory Action, p. 27.³⁶

Response to Comment No. 7-77

As discussed above in Response to Comment No. 7-76, CEQA Guidelines Section 15064.4 does not establish a threshold of significance. Lead agencies have the discretion to establish significance thresholds for their respective jurisdictions, and in establishing those thresholds, a lead agency may appropriately look to thresholds developed by other public agencies, or suggested by other experts, such as CAPCOA, as long as any threshold chosen is supported by substantial evidence (see CEQA Guidelines Section 15064.7(c)). CEQA Guidelines Section 15064.4(b)(3) goes on to state “In determining the significance of impacts, the lead agency may consider a project’s consistency with the State’s long-term climate goals or strategies, provided that substantial evidence supports the agency’s analysis of how those goals or strategies address the project’s incremental contribution to climate change.”

In the absence of any adopted numeric threshold, the significance of the Project’s GHG emissions is evaluated consistent with CEQA Guidelines Section 15064.4(b)(2) by considering whether the Project complies with applicable plans, policies, regulations and requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. For this Project, as a land use development project, the most directly applicable adopted regulatory plan to reduce GHG emissions is the 2016–2040 RTP/SCS, which is designed to achieve regional GHG reductions from the land use and transportation sectors as required by SB 375 and the State’s long-term climate goals. This analysis also considers consistency with regulations or requirements adopted by the AB 32 Climate Change Scoping Plan and the City of Long Beach CAP.

While the City’s Sustainability City Action Plan may not meet the exact requirements under CEQA Guidelines Section 15183.5 for a GHG reduction plan, the Sustainability City Action Plan is most certainly relevant to the Project in considering potential GHG impacts. The plan is intended to guide operational, policy, and financial decisions to create a more sustainable Long Beach. The Sustainable City Action Plan includes measurable goals and actions that are intended to be challenging, yet realistic. Table IV.C-8 on page IV.C-71 of the Draft EIR provides a discussion of the Project’s consistency with applicable GHG-reducing actions from the Sustainable City Action Plan. As shown therein, the Project would be consistent with the applicable GHG reduction actions. The GHG analysis does not rely solely on the City of Long Beach’s Sustainability City Action Plan for a determination of significance. Instead, the GHG analysis in the Draft EIR also considers consistency with regulations that serve to implement the *Climate Change Scoping Plan* and

the 2016–2040 RTP/SCS. As also discussed herein, the GHG analysis includes an evaluation of Project consistency with other relevant plans as well.

Comment No. 7-78

When read in conjunction, CEQA Guidelines §§ 15064.4(b)(3) and 15183.5(b)(1) make clear qualified GHG reduction plans (also commonly referred to as a Climate Action Plan [“CAP”]) should include the following features:

- (1) **Inventory:** Quantify GHG emissions, both existing and projected over a specified time period, resulting from activities (e.g., projects) within a defined geographic area (e.g., lead agency jurisdiction);
- (2) **Establish GHG Reduction Goal:** Establish a level, based on substantial evidence, below which the contribution to GHG emissions from activities covered by the plan would not be cumulatively considerable;
- (3) **Analyze Project Types:** Identify and analyze the GHG emissions resulting from specific actions or categories of actions anticipated within the geographic area;
- (4) **Craft Performance-Based Mitigation Measures:** Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level; and
- (5) **Monitoring:** Establish a mechanism to monitor the CAP progress toward achieving said level and to require amendment if the plan is not achieving specified levels.

The above-listed CAP features provide the necessary substantial evidence demonstrating a project’s incremental contribution is not cumulative considerable, as required under CEQA Guidelines § 15064.4(b)(3).³⁷

³⁵ Resources Agency (Nov. 2018) Final Statement of Reasons For Regulatory Action: Amendments To The State CEQA Guidelines, http://resources.ca.gov/ceqa/docs/2018_CEQA_Final_Statement_of%20Reasons_111218.pdf.

³⁶ Resources Agency (Dec. 2009) Final Statement of Reasons for Regulatory Action, p. 27 (“Those sections each indicate that local and regional plans may be developed to reduce GHG emissions. If such plans reduce community-wide emissions to a level that is less than significant, a later project that complies with the requirements in such a plan may be found to have a less than significant impact.”), http://resources.ca.gov/ceqa/docs/Final_Statement_of_Reasons.pdf.

³⁷ See *Mission Bay Alliance v. Office of Community Investment & Infrastructure* (2016) 6 Cal.App.5th 160, 200-201 (Upheld qualitative GHG analysis when based on city’s adopted its greenhouse gas strategy that contained “multiple elements” of CEQA Guidelines § 15183.5(b), “quantification of [city’s] baseline levels of [GHG] emissions and planned reductions[,]” approved by the regional air district, and “[a]t the heart” of

the city's greenhouse gas strategy was "specific regulations" and measures to be implemented on a "project-by-project basis... designed to achieve the specified citywide emission level.").

Response to Comment No. 7-78

This comment correctly cites language from CEQA Guidelines Section 15183.5. However, the GHG analysis does not rely solely on the City of Long Beach's Sustainability City Action Plan for a determination of significance. Instead, the GHG analysis in the Draft EIR also considers consistency with regulations that serve to implement the *Climate Change Scoping Plan* and the 2016–2040 RTP/SCS. As also discussed herein, the GHG analysis includes an evaluation of Project consistency with other relevant plans as well. See also Response to Comment No. 7-80, below, for further discussion.

Comment No. 7-79

Here, however, none of the plans identified in the DEIR include the above-listed features to be considered a qualified CAP for the City, such as: inventorying the City's contribution to the State's GHG emissions, establishing the City's fair share in GHG reduction goal, quantifying the GHG impact of various project types in the City, crafting performance-based mitigation measures that quantifiably meets City-specific reduction goal, or including a City monitoring program that ensures the plan's effectiveness.

Response to Comment No. 7-79

This comment, which asserts none of the plans identified in the Draft EIR qualify as a Climate Action Plan (CAP), is addressed in Response to Comment No. 7-80, below.

Comment No. 7-80

Second, none of these plans satisfy requirements under CEQA Guideline § 15064(H)(3). Subdivision (h)(3) permits lead agencies to find projects not cumulative considerable when a project complies with an approved plan or mitigation program that "provides specific requirements that will avoid or substantially lessen the cumulative problems within the geographic area in which the project is located... [and] the lead agency should explain how implementing the particular requirements in the plan, regulation or program ensure that the project's incremental contribution to the cumulative effect is not cumulatively considerable." (Emph. added). When adopted, the Resources Agency explained that this subsection provides a "rebuttable presumption" for "certain" plans, such as local CAPs. 2009 Final Statement of Reason, p. 14-15. As further explained, "consistency with plans that are purely aspirational (i.e., those that include only unenforceable goals without mandatory reduction measures), and provide no assurance that emissions within the area governed by the plan will actually address the cumulative problem, may not achieve the level of protection necessary to give rise to this subdivision's presumption." Id., p. 16 (emph.

added). Hence, lead agencies must “draw a link between the project and the specific provisions of a binding plan or regulation,” before subsection (h)(3) rebuttable presumption is to take effect.

Response to Comment No. 7-80

Contrary to the statements in the comment, the regulatory criteria referenced do not only apply to a locally-adopted CAP. It is also critical to note that GHG emission impacts are not localized and are not tied to any specific geographic area, but disperse evenly throughout the atmosphere. This is why CEQA Guidelines Section 15064.4 allows determinations of significance to be based on compliance with statewide and regional plans as well as local plans – there is no localized impact whatsoever with GHG emissions but rather a global cumulative impact, making compliance with local, regional, or state regulations and plans for the reduction of GHG emissions effective and meaningful to reduce impacts.

The comment misreads the cited regulations and the relevant respective 2009 and 2019 statements of reasons for regulatory actions by the Natural Resources Agency. First, CEQA Guidelines Section 15064.4(a)(2) allows, in determining the significance of a project’s impacts, a “qualitative” or “performance based” standard. Section 15064.4(b)(3) states that “[i]n determining the significance of impacts, the lead agency may consider a project’s consistency with the State’s long-term climate goals or strategies, provided that substantial evidence supports the agency’s analysis of how those goals or strategies address the project’s incremental contribution to climate change and its conclusion that the project’s incremental contribution is not cumulatively considerable.”

CEQA Guidelines Section 15064(h)(3) states, in relevant part, that a:

...lead agency may determine that a project’s incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program... that provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. When relying on a plan, regulation or program, the lead agency should explain how implementing the particular requirements in the plan, regulation or program ensure that the project’s incremental contribution to the cumulative effect is not cumulatively considerable.

In the Draft EIR, the Project's GHG impacts are analyzed in Section IV.C and in Appendix B, the Project's Air Quality and GHG Emissions technical report. The analysis includes a quantified assessment of the Project's GHG emissions utilizing CalEEMod modeling software. As discussed therein, the Project includes characteristics that have been identified to reduce GHG emissions through reductions of Vehicle Miles Travelled (VMT) in accordance with the CAPCOA guidance document, *Quantifying Greenhouse Gas Mitigation Measures*, which include the densification, location, and measures incorporated into the Project that are demonstrated through quantitative analysis to result in a 61 percent reduction in mobile-source GHG emissions and a 45 percent reduction overall as compared to a project that would not include the same VMT/GHG reducing elements and measures. (See Draft EIR, at pp. IV.C-47 – 50.)

The Draft EIR includes a detailed point-by-point analysis of the Project's consistency with SCAG's 2016–2040 RTP/SCS, the 2008 Scoping Plan and related regulations, the first Scoping Plan update, and importantly, the 2017 update to the Scoping Plan that includes additional regulations adopted to reduce GHG emissions adopted after 2009, and the City's Sustainable City Action Plan. (See Draft EIR, at pp. IV.C-60–65.)

The analysis concludes that the Project is consistent with the plans' key GHG reducing goals and requirements consistent with the CAPCOA factors, based on the Project's provision of a new, high-rise hotel on an underutilized surface parking lot in a dense urban environment in close proximity to transit for which the Project proposes various pedestrian friendly improvements and various other features, requirements and elements to promote alternative forms of transportation. Such measures in the Project include new bicycle parking and facilities, a TDM program that would further promote alternative transportation, and compliance with the LEED Silver® energy efficiency standard, which includes energy efficiency requirements that exceed the already stringent Title 24 standards. The LEED Silver® requirement is implemented into the Project via Project Design Feature GHG-1. Based on these location, use, design feature, and regulatory compliance measures, the Project is determined to be overall consistent with key GHG reduction goals and requirements of the analyzed plans. The effectiveness of this compliance is further demonstrated through a quantitative analysis provided for informational and demonstrative purposes. Based on these factors, the Draft EIR concludes the Project would result in a less than significant impact with respect to GHG emissions. This determination is well supported by substantial evidence. (Ibid.)

This analysis complies with the requirements of CEQA relative to an impact analysis based on consistency with appropriate plans. First, under CEQA Guidelines Section 15064.4(a)(2), the robust consistency analysis of the Project with the Scoping Plan and its subsequent updates and key regulations meets the Guideline's allowance of an analysis of project consistency with the "State's long-term climate goals or strategies." (see also,

Center for Biological Diversity v. Cal. Dept. of Fish and Wildlife (“Newhall Ranch”) (2015) 62 Cal.4th 204, 229-230 [Agency “did not proceed in violation of CEQA by its choice of Assembly Bill 32 consistency as a significance criterion.”] Here, substantial evidence in terms of that consistency analysis itself and the demonstration of the effectiveness of that consistency through quantitative means provide ample substantial evidence to support the conclusion that the Project’s incremental contribution to climate change is less than significant.

Second, the Draft EIR’s robust analysis of the Project’s consistency with the 2016–2040 RTP/SCS is consistent with the requirements of Section 15064(h)(3) because the plan “provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area in which the project is located,” and is both “specified in law” and is “adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency.”²¹ Namely, as explained on Page IV.C-66 of the Draft EIR, the 2016–2040 RTP/SCS was adopted by SCAG pursuant to a certified EIR that includes various requirements and control and mitigation measures that are demonstrated to achieve the quantified GHG reduction targets set in the plan. The Draft EIR for the Project further explains on Pages IV.C-52 through 70 “how implementing the particular requirements in the plan, regulation or program ensure that the project’s incremental contribution to the cumulative effect is not cumulatively considerable.” This analysis is thus consistent with the Guidelines and demonstrates with substantial evidence that the Project would result in less than significant GHG emissions impacts consistent with the requirements of CEQA. Contrary to various statements in the comment, an analysis of a project’s impacts through consistency with the requirements of a local Climate Action Plan or other similar local plan that meets the requirements of Section 15183.5 is not the only means available under the Guidelines of using local and regional plans to assess the significance of a project’s potential GHG emissions impacts through a qualitative consistency analysis. As stated in the 2009 AB 97 Statement of Reasons at Page 27, cited partially by the commenter, “Section 15064.4(b)(3) is intended to be read in conjunction with the section 15064(h)(3) ... and proposed section 15183.5. Those sections *each* indicate that local and regional plans may be developed to reduce GHG emissions. *If such plans reduce community-wide emissions to a level that is less than significant, a later project that complies with the requirements in such a plan may be found to have a less than significant impact.*” (emphasis added.) Thus, it is not just local plans adopted consistent with Section 15183.5 that can validly be analyzed to determine the significance of project impacts, but also plans consistent with Section 15064(h)(3), which the 2016–2040 RTP/SCS is, as set forth above. Furthermore, again, in addition, this consistency

²¹ CEQA Guidelines 15064(h)(3).

analysis is supported in the Draft EIR with a supplemental quantitative analysis demonstrating the Project would result in significant reductions in GHG emissions as compared to a project that does not include the Project's GHG emissions-reducing characteristics, features and measures that are consistent with plans including the 2016–2040 RTP/SCS, providing additional substantial evidence supporting the EIR's qualitative significance determination. (See Draft EIR, at pp. IV.C-47–50.) The analysis provided in the Draft EIR thus complies with CEQA.

Moreover, it is not reasonable to assert as the commenter appears to that, in the absence of an entirely *voluntary* local CAP or other plan meeting the requirements of Section 15183.5, a local lead agency is unable to conduct a valid qualitative GHG impact analysis based on consistency with GHG-reduction plans and regulations, particularly valid statewide plans and regulations and a plan such as the 2016–2040 RTP/SCS which is determined in a certified EIR to result in substantial reductions of GHG emissions in the region if implemented by, among other things, projects consistent with its requirements such as the Project. In a circumstance where not only the City, but other agencies in the region including SCAQMD, have not adopted quantitative GHG emissions thresholds that could reasonably apply to the Project, such a requirement would be a functional moratorium on the approval of new hotel and other types of urban development in the City until such a voluntary local plan is developed and implemented. However, as stated above, the CEQA Guidelines are not so restrictive. Moreover, as a matter of general policy, CEQA is only intended to provide decisionmakers with sufficient information to make informed decisions: its sufficiency is reviewed in light of what is reasonably feasible. Courts look for adequacy and completeness, and not perfection, in an EIR. In addition, EIRs need not be delayed to include outside studies in progress that contain additional information (see CEQA Guidelines Sections 15144-15145, 15151; 2 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (March 2017 Update) Section 11.26, p. 11-18.). The analysis in the Draft EIR meets all the substantive requirements of CEQA for the analysis of GHG impacts referenced herein and the comment fails to demonstrate otherwise.

Comment No. 7-81

Here, however, the AB 32 Scoping Plan is not City specific. Furthermore, the actions and strategies listed in the DEIR (TbIs. IV.C-6 & IV.C-7) only tangentially related to the Project (e.g., Cap-and-Trade, Renewables Portfolio Standard, Low Carbon Fuel Standards, etc.). For example, the DEIR suggest that the Project's GHG emissions from mobile sources are covered by CARB's Cap-and-Trade program. See e.g., DIER, [sic] p. IV.C-19 (“...virtually all, if not all, of GHG emissions from CEQA projects associated with vehicle miles traveled (VMT) are covered by the Cap-and-Trade Program.”), p. IV.C-55 [“Cap-and-Trade Program also covers the GHG emissions associated with the combustion of transportation fuels in California, whether refined in-state or imported.”]. However, CARB has stated it would be “misguided” to suggest Cap-and-Trade covers mobile emissions from local land use

projects, and made it abundantly clear that its Scoping Plans are “non-binding” on local governments. See CARB (12/5/18) RE Centennial Specific Plan Final EIR, p. 3-4, 6-7, 10-11 (<https://ww3.arb.ca.gov/toxics/ttdceqalist/centennialfeir.pdf>).

Response to Comment No. 7-81

The administrative record for the CEQA Guidelines Amendments clarifies that “the effects of greenhouse gas emissions are cumulative, and should be analyzed in the context of California Environmental Quality Act’s requirements for cumulative impact analysis.”²² As such, it is appropriate that the Draft EIR analysis evaluated consistency with the AB 32 Scoping Plan. Given that energy use and mobile source emissions are the two main sources of GHG emissions, consistency with Cap-and-Trade, Renewables Portfolio Standard, and Low Carbon Fuel Standards) is related to the Project. These important regulations/standards serve to substantially reduce project-related emissions.

Regarding Cap-and-Trade, this comment misrepresents what is stated in the Draft EIR and removes important context from the referenced citations on page IV.C-19 and page IV.C-55 of the Draft EIR. The complete language is as follows:

Page IV.C-19 states, “[t]he Cap-and-Trade Program also covers fuel suppliers (natural gas and propane fuel providers and transportation fuel providers) to address emissions from such fuels and from combustion of other fossil fuels not directly covered at large sources in the Program’s first compliance period. While the Cap-and-Trade Program technically covered fuel suppliers as early as 2012, they did not have a compliance obligation (i.e., they were not fully regulated) until 2015. Furthermore, the Cap-and-Trade Program also covers the GHG emissions associated with the combustion of transportation fuels in California, whether refined in-state or imported. The point of regulation for transportation fuels is when they are “supplied” (i.e., delivered into commerce). Accordingly, as with stationary source GHG emissions and GHG emissions attributable to electricity use, virtually all, if not all, of GHG emissions from CEQA projects associated with vehicle miles traveled (VMT) are covered by the Cap-and-Trade Program.”

Page IV.C-55 states, “[a]s required by AB 32 and the 2008 Climate Change Scoping Plan, the Cap-and-Trade Program covers the GHG emissions associated with electricity consumed in California, whether generated in-state or imported. Accordingly, this regulatory program applies to electric service providers and not directly to land use development. That said, the Project would benefit from this regulatory program in that the

²² Letter from Cynthia Bryant, Director of the Governor’s Office of Planning and Research to Mike Chrisman, California Secretary for Natural Resources, dated April 13, 2009.

GHG emissions associated with the Project's electricity usage would indirectly be covered by the Cap-and-Trade Program. Furthermore, the Cap-and-Trade Program also covers the GHG emissions associated with the combustion of transportation fuels in California, whether refined in-state or imported."

Page IV.C-55 also states that, "the Cap-and-Trade Program covers the GHG emissions associated with electricity consumed in California, whether generated in-state or imported." Accordingly, this regulatory program applies to electric service providers and not directly to land use development. That said, the Project would benefit from this regulatory program in that the GHG emissions associated with the Project's electricity usage would indirectly be covered by the Cap-and-Trade Program.

Contrary to what is stated in this comment, nowhere in the cited language does it suggest that Cap-and-Trade covers mobile emissions from local land use projects. The entire paragraph on page IV.C-19 regarding Cap-and-Trade was how the regulation applies to covered entities (e.g., fuel suppliers and refineries) and related GHG emissions. Regarding the Scoping Plan's appropriateness for a GHG emissions consistency analysis, see Response to Comment No. 7-80, above.

Comment No. 7-82

Similarly, SCAG's 2016 RTP/SCS is not City-specific and contains purely aspirational language without any binding, mandatory requirements on specific projects.³⁸ While the City's SCAP is geographic-specific, it too contains only aspirational actions without and specific requirements for private developments.³⁹ None of the CARB, SCAG, or City actions/strategies cited are specific, mandatory, binding requirements for the Project. As such, the EIR leaves an analytical gap showing compliance with said plans will translate into a project-level insignificance determination for the Project, and/or that the City is meeting its fair share in reducing the State's GHG emissions required under AB 32.⁴⁰

³⁸ See SCAG (Apr. 2016) 2016 RTP/SCS, Chapter 5 ("Reflect the changing population and demands... Focus new growth around transit... Plan for growth around livable corridors... Provide more options for short trips... Support local sustainability planning... Protect natural and farm lands... Preserve our existing [transportation] system... Manage congestion... Promote zero-emissions vehicles... Promote safety and security....") (Emphasis added), <http://scagrtpscsc.net/Documents/2016/final/f2016RTPSCS.pdf>.

³⁹ See City (Feb. 2010) SCAP, ("Explore green development requirements... Incorporate sustainability strategies... Encourage neighborhood and business groups to sponsor and participate in community clean-up... Employ best practices to avoid, minimize or mitigate greenhouse gas emissions... Educate and encourage residents and businesses to calculate their carbon footprint... Pursue emerging cutting-edge renewable energy technologies... Implement energy efficiency and conservation measures... Encourage the community to participate in energy efficiency and conservation programs... Promote the development of renewable energy and emerging greenhouse gas technologies... Encourage local car-pool programs to reduce the number of single occupancy commute trips... Support the use of

neighborhood electric vehicles... *Promote* bike share opportunities throughout the city....”) (Emphasis added), <http://www.longbeach.gov/globalassets/sustainability/media-library/documents/nature-initiatives/action-plan/scap-final>.

- ⁴⁰ See *Golden Door Properties, LLC v. County of San Diego* (2018) 27 Cal.App.5th 892, 905 (held County’s GHG threshold relying on statewide standards failed to comply with CEQA Guidelines § 15064.7(c) because it did not address the County specifically); *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204, 230 (“Local governments thus bear the primary burden of evaluating a land use project’s impact on greenhouse gas emissions. Some of this burden can be relieved by using geographically specific greenhouse gas emission reduction plans to provide a basis for the tiering or streamlining of project-level CEQA analysis.”); [sic]

Response to Comment No. 7-82

The commenter’s statement that the 2016–2040 RTP/SCS is a “purely aspirational” plan is inaccurate. Rather, the planning strategies, requirements, design measures, regulatory compliance measures, and mitigation measures included in the 2016–2040 RTP/SCS are demonstrated in a certified project EIR to result in significant GHG reductions in the region. This makes the plan appropriate for a GHG consistency analysis under CEQA Guidelines Section 15064(h)(3). The Project’s consistency with the key GHG reduction requirements of this plan are fully analyzed. See also Response to Comment No. 7-80, above.

Moreover, the statement that there is an “analytical gap” in the analysis for the Project fails to account for quantitative analysis conducted for the Project that demonstrates that its compliance with identified plans and regulations will result in substantial reductions of GHG emissions (see Draft EIR, at pp. IV.C-47–50). This substantial evidence provides critical support bridging the gap between the Project’s analyzed consistency with plans and regulations for the reduction of GHGs, including with the 2016–2040 RTP/SCS, and actual reductions of GHG emissions by the Project as compared to a project that would not have the same GHG-reducing characteristics and design features.

Comment No. 7-83

Third, the City’s current efforts to adopt its own CAP (i.e., the Climate Action and Adaptation Plan), which would purportedly satisfy CEQA Guidelines 15064(h)(3) (DEIR, p. IV.C-29), begs the question why would the City go forth with its own CAP if the AB 32 Scoping Plans, 2016 RTP/SCS, and SCAP already qualify under 15064(h)(3). The clear indication is that those existing plans are not appropriate to determine GHG significance at a City, project-level.

Response to Comment No. 7-83

The GHG analysis does not rely solely on the City of Long Beach's Sustainability City Action Plan for a determination of significance. Instead, the GHG analysis in the Draft EIR also considers consistency with regulations that serve to implement the *Climate Change Scoping Plan* and the 2016–2040 RTP/SCS. While the City's Sustainability City Action Plan may not meet the exact requirements under CEQA Guidelines Section 15183.5 for a GHG reduction plan, the Plan is relevant to the Project in considering potential GHG impacts. The plan is intended to guide operational, policy, and financial decisions to create a more sustainable Long Beach. The Sustainable City Action Plan includes measurable goals and actions that are intended to be challenging, yet realistic. Table IV.C-8 on page IV.C-71 of the Draft EIR provides a discussion of the Project's consistency with applicable GHG-reducing actions from the Sustainable City Action Plan. As shown therein, the Project would be consistent with the applicable GHG reduction actions. The assertion that the City's choice to develop a Climate Action Plan is some form of admission that the City currently lacks any basis to properly analyze GHG impacts consistent with the requirements of the CEQA Guidelines is baseless speculation rooted in a misreading of the relevant regulations. See also Response to Comment No. 7-80, above.

Comment No. 7-84

In sum, none of the plans relied upon in the DEIR are geographic-specific with mandatory, binding mitigation measures specific for the Project. The DEIR fails to draw the link between any specific provisions that ensure the Project's incremental contribution to climate change is not cumulatively considerable.

Response to Comment No. 7-84

This comment is addressed in Response to Comment Nos. 7-80 and 7-82, above.

Comment No. 7-85***2) The City of Long Beach's Sustainable City Action Plan is Not Applicable to the Project***

As previously mentioned, the Project relies upon consistency with the City of Long Beach's Sustainable City Action Plan to determine Project significance. However, review of the plan demonstrates that the City has failed to include goals or targets beyond 2020.⁴¹

Given the construction schedule, the Project is not set to become operational until July 2022 (p. I-22). However, the City's Sustainability Action Plan is only applicable to projects that will be fully operational by 2020. Because the City's Sustainable Action Plan fails to

include an emissions reduction target for 2030, it is therefore not applicable to the proposed Project. Thus, we require that an updated DEIR be prepared to include an adequate evaluation and mitigation of the proposed Project's GHG emissions to ensure that impacts are reduced to a less than significant level.

⁴¹ *Supra* fn. 39.

Response to Comment No. 7-85

As discussed above, the GHG analysis does not rely solely on the City of Long Beach's Sustainability City Action Plan for a determination of significance. Instead, the GHG analysis in the Draft EIR also considers consistency with regulations that serve to implement the *Climate Change Scoping Plan* and the 2016–2040 RTP/SCS. While the City's Sustainability City Action Plan may not meet the exact requirements under CEQA Guidelines Section 15183.5 for a GHG reduction plan, the Plan is most certainly relevant to the Project in considering potential GHG impacts. The plan is intended to guide operational, policy, and financial decisions to create a more sustainable Long Beach. The Sustainable City Action Plan includes measurable goals and actions that are intended to be challenging, yet realistic. Table IV.C-8 on page IV.C-71 of the Draft EIR provides a discussion of the Project's consistency with applicable GHG-reducing actions from the Sustainable City Action Plan. As shown therein, the Project would be consistent with the applicable GHG reduction actions. As also discussed herein, the GHG analysis includes an evaluation of Project consistency with other relevant plans and regulations as well. See also Response to Comment No. 7-80, above.

Comment No. 7-86

3) *Failure to Demonstrate Compliance with the CARB 2017 Scoping Plan, and SCAG RTP/SCS*

As previously mentioned, the EIR attempts to show compliance with CARB's various Scoping Plans and SCAG's RTP/SCS. The DEIR's chief claim is that the Project is an "infill" development (DEIR, p. IV.C-49, IV.C-56, IV.C-61–IV.C-62, IV.C-67–IV.C-69) and, therefore, consistent with the aspirational actions/strategies under these plans. Notwithstanding these plans fail to qualify under the CEQA Guidelines (discussed *supra*), the EIR failed to discuss the Project's inconsistency with numerous non-binding measures and policies under CARB's 2017 Scoping Plan and SCAG's 2016 RTP/SCS.

Response to Comment No. 7-86

This comment is largely introductory in nature and makes the claim that the Draft EIR analysis of the Project's consistency with GHG reduction plans is not valid because the

Project is actually inconsistent with said plans. For substantive responses to the specific allegations of inconsistency, see Response to Comment Nos. 7-87 through 7-91, below.

Comment No. 7-87

CARB 2017 Scoping Plan⁴²	
<p>The California Global Warming Solutions Act of 2006 (“AB 32”) was signed into law in September 2006. The law instructs the California Air Resources Board (“CARB”) to develop and enforce regulations for the reporting and verifying of statewide GHG emissions. The heart of AB 32 is the requirement that statewide GHG emissions be reduced to 1990 levels by 2020 (Health & Saf. Code § 38500 <i>et seq.</i>). However, in April 2015, Governor Edmund G. Brown Jr. issued Executive Order B-30-15 that, <i>inter alia</i>, establish a California GHG reduction target of 40 percent below 1990 levels by 2030 as a step toward the ultimate goal of reducing emissions by 80 percent below 1990 levels by 2050. In September 2016, this goal was made into law with Governor Brown’s signing of Senate Bill 32 (“SB 32”) (enacting Health & Saf. Code § 38566). To this end, CARB released various guidance documents outlining how the State is to achieve the abovementioned goals, including its adoption of its 2017 Scoping Plan in November 2017 that proposes various project-specific, measures lead agencies <u>could</u> consider in mitigation a Project’s GHG impact, such as:</p>	
Optional Measures—Operation	
Require on-site EV charging capabilities for parking spaces serving the project to meet jurisdiction-wide EV proliferation goals.	Here, the DEIR fails to mention on-site EV charging capabilities for parking spaces.
Dedicate on-site parking for shared vehicles.	Here, the DEIR fails to discuss on-site parking for shared vehicles.
Require organic collection in new developments.	Here, the DEIR states that the Project would comply with “AB 1826 which requires organic waste recycling” (p. VI-3). However, the DEIR also claims that “[t]he Project would be consistent with AB 341 which requires not less than 75 percent of solid waste generated to be source reduced through recycling, composting, or diversion” (p. IV.C-63-64). However, neither of these claims indicate any actual programs or policies regarding implementation or enforcement of organic collection.
Require low-water landscaping in new developments. Require water-efficient landscape maintenance to conserve water and reduce landscape waste.	Here, the DEIR claims that the Project will include “water efficient plantings with drought-tolerant species” (p. I-53). However, the DEIR fails to indicate which species, how they will be maintained, what the watering process will be like, or any other details.
Achieve Zero Net Energy performance targets prior to dates required by CALGreen.	Here, the DEIR states, while describing the 2008 CARB Climate Change Scoping Plan, that it includes “new residential and commercial building energy improvements, specifically identifying progress towards zero net energy buildings” (p. IV.C-16). Although the DEIR acknowledges this as part of the 2008 Scoping Plan, it fails to address how the Project will help achieve this goal.
Require preferential parking spaces for park and ride to incentivize carpooling, vanpooling, commuter bus, electric vehicles, and rail service	Here, the DEIR states that “[a]n on-site parking stall will be reserved for a car share vehicle, or be placed within walking distance of the hotel” (Appendix E, pp.

<p>use.</p>	<p>251). However, this does not verify that the Project will include any preferential spaces for park and ride, but rather there may be one on site, or somewhere nearby. This is insufficient, as the SCAG RTP/SCS measure indicates more than one space, and that it is part of the Project.</p>
<p>Require a transportation management plan for specific plans which establishes a numeric target for non- single occupancy vehicles (“SOV”) travel and overall vehicles miles traveled (“VMT”).</p>	<p>Here, while the DEIR does include a transportation demand management plan, it is not required for specific plans to establish a numeric target for SOV travel and VMT.</p>
<p>Develop a rideshare program targeting commuters to major employment centers.</p>	<p>Here, the DEIR states that “[r]ideshare matching programs help carpools to form by matching drivers and passengers. Information about other ridesharing apps will be disseminated to employees in their orientation packages and on the hotel website for guests. The Transportation Coordinator will also facilitate carpool matching for employees with common residence locations” (Appendix E, pp. 253).</p>
<p>Require the design of bus stops/shelters/express lanes in new developments to promote the usage of mass transit.</p>	<p>Here, the DEIR states that “[t]here are existing bus stops on Ocean Boulevard and Pine Avenue adjacent to the Project site” (Appendix E, pp. 50). However, the DEIR fails to mention any new bus stops, shelters, or express lanes to promote mass transit use.</p>
<p>Require electric vehicle charging station (conductive/inductive) and signage for non-residential developments.</p>	<p>Here, the DEIR fails to mention electric vehicle charging stations. The DEIR does mention wayfinding signage, but nothing for EV charging stations (I-53).</p>
<p>Provide electric outlets to promote the use of electric landscape maintenance equipment to the extent feasible on parks and public/quasi-public lands.</p>	<p>Here, the DEIR fails to address electric outlets to promote the use of electric landscape maintenance equipment.</p>
<p>Require the installation of energy conserving appliances such as on-demand tank-less water heaters and whole-house fans.</p>	<p>Here, the DEIR states that it will include the “[u]se of high-efficiency fixtures and appliances” and the “[u]se of high-efficiency Energy Star-rated dishwashers and clothes washers where appropriate” (p. II-24). However, the DEIR fails to specify which fixtures and appliances will be high-efficiency, how they define “appropriate” for Energy Star-rated dishwashers and clothes washers, or how they will be enforced and maintained.</p>
<p>Require large-scale residential developments and commercial buildings to report energy use, and set specific targets for per-capita energy use.</p>	<p>Here, the DEIR fails to mention any reporting of energy use or specific per-capita targets for energy use.</p>
<p>Require each residential and commercial building to utilize low flow water fixtures such as low flow toilets and faucets.</p>	<p>Here, the DEIR claims that “the Project would incorporate water conservation features that would contribute towards meeting this performance based standard. Examples include: high-efficiency toilets and urinals” (p. IV.C-58). However, the DEIR states that these are merely examples, which fails to ensure that they will be included in the Project. In addition, the DEIR fails to mention low flow faucets, or other water fixtures.</p>

<p>Incorporate water retention in the design of parking lots and landscaping.</p>	<p>Here, the DEIR states that the Project will include an “on-site storm water treatment and re-use system” (p. I-11).</p>
<p>Require the development project to propose an off-site mitigation project which should generate carbon credits equivalent to the anticipated GHG emission reductions. This would be implemented via an approved protocol for carbon credits from California Air Pollution Control Officers Association (“CAPCOA”), the California Air Resources Board, or other similar entities determined acceptable by the local air district.</p>	<p>Here, the DEIR fails to propose an off-site mitigation project that would generate carbon credits.</p>
<p>Require the project to purchase carbon credits from the CAPCOA GHG Reduction Exchange Program, American Carbon Registry (“ACR”), Climate Action Reserve (“CAR”) or other similar carbon credit registry determined to be acceptable by the local air district.</p>	<p>Here, the DEIR fails to mention the Project purchasing carbon credits from the CAPCOA GHG Reduction Exchange Program, ACR, CAR, or any other similar carbon credit registry.</p>
<p>Encourage the applicant to consider generating or purchasing local and California-only carbon credits as the preferred mechanism to implement its offsite mitigation measure for GHG emissions and that will facilitate the State’s efforts in achieving the GHG emission reduction goal.</p>	<p>Here, the DEIR fails to address generating or purchasing local and California-only carbon credits as the preferred mechanism to implement offsite mitigation measures.</p>

⁴² CAPCOA, (Jan 2017) 2017 Scoping Plan, Appendix B-Local Action, p. 7-9, https://www.arb.ca.gov/cc/scopingplan/app_b_local_action_final.pdf

⁴³ SCAG (Apr. 2012) 2012 RTP/SCS, p. 107-164, <http://rtpscs.scag.ca.gov/Documents/2012/final/f2012RTPSCS.pdf>.

Response to Comment No. 7-87

As an important initial matter, a lead agency’s determination of a project’s consistency with applicable plans under CEQA is provided substantial deference and looks at holistic compliance with the plan (i.e., because broad-based planning documents reflect a range of competing interests, a project is properly found to comply with a plan where it meets the plan’s overall goals and objectives; it need not be in perfect conformity with every applicable goal and policy). (See *Sequoyah Hills Homeowner’s Ass’n v. City of Oakland* (1993) 23 Cal.App.4th 704, 719; *Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807, 815; SB 97 2009 Final Statement of Reasons, at p. 29 [stating analysis of consistency with General Plans under CEQA relevant to analysis of consistency with plans for GHG reductions].) Thus, here, the City’s conclusion that the Project is consistent with the Scoping Plan is validly supported by substantial evidence. The purported identification of certain policies under the plan that the Project allegedly conflicts with is not enough standing alone to undermine the consistency findings made in the Draft EIR.

In addition, the individual claims of inconsistency with plans substantively lack merit. With respect to electric vehicles, Page IV.C-24 of the Draft EIR notes that the Project would comply with the California Building Code Table 5.106.5.3.3, which requires that non-residential projects such as the Project that would provide 151 onsite parking spaces is required to provide 10 percent of the spaces as “EV ready” spaces that are wired to enable electric vehicle stalls to be installed at a future date. (See Cal Green Building Code, Table 5.106.5.3.3; Draft EIR pages IV.C-24 and IV.C-28.) Thus, the Draft EIR identifies that the Project will have onsite EV charging capabilities in line with applicable regulatory requirements. With respect to “shared vehicles,” the Draft EIR includes a “shared parking study” as Appendix E.2, and the Project’s TDM program would provide car share parking spaces, car share membership, a guaranteed ride home program, and transit and bike share passes. (Draft EIR, at pp. I-47; IV.E-26.) Thus, the statement in the comment regarding the failure of the Project to address shared vehicles is not accurate. Regarding organic collection, the comment itself admits that the Project, as stated in the Draft EIR, would comply with AB 1826 “which requires organic waste recycling.” The fact that the Project would also comply with other regulations regarding waste collection, diversion and recycling does not alter this fact. Regarding low-water landscaping, the comment admits that the Project complies with this standard by including a requirement for drought tolerant landscaping. The demand for additional specific information on the species of plants and how such plants will be maintained are operational details not required to be provided by CEQA for any analysis, including particularly a general consistency analysis with a plan. Regarding the claims regarding the state’s Net Zero Energy standard and low water use fixtures, the Draft EIR states that the Project will comply with Green Building Code and Title 24 standards, and will comply with the LEED Silver® energy efficiency standards, the last of which is adopted as an enforceable Project Design Feature. (See, e.g., Draft EIR at pp. V-15, IV.C-44, and IV.C-45.) The claim regarding preferential parking spaces, rideshare, and TDM, the comment admits that the Project will provide parking for car share and will provide access for ridesharing and a TDM program. The claim that this is inconsistent with the Scoping Plan because it does not quantify specific VMT reductions is incorrect and overstated. (See Appendix E, Transportation-Traffic Study, Appendix E.3, TDM Plan.) Regarding off-site mitigation for carbon credits, such requirements are not mandated for the Project. As analyzed in the Draft EIR chapter on GHG impacts, the Project would result in less than significant GHG emissions impacts. Thus, the Project is consistent with each alleged policy of the Scoping Plan.

Comment No. 7-88

SCAG 2012–2035 and 2016–2040 RTP/SCS

In April 2012, SCAG adopted its 2012-2035 RTP/ SCS (“2012 RTP/SCS”), which proposed *aspirational* land use policies and transportation strategies for local governments to implement that would help the region achieve GHG emission reductions of nine percent per capita in 2020 and 16 percent per capita in 2035.⁴³ In April 2016, SCAG adopted the 2016–2040 RTP/SCS (“2016 RTP/SCS”), which incorporated and

built upon the policies and strategies in the 2012 RTP/SCS, that would help the region achieve GHG emission reductions that would reduce the region’s per capita transportation emissions by eight percent by 2020 and 18 percent by 2035.⁴⁴ The table below outlines applicable land use policies and transportation strategies identified in the 2012 and 2016 RTP/SCS that the DEIR ignores.

Land Use Policies⁴⁵	
Affordable Housing: Local municipalities should incorporate strategies such as collaborate with local jurisdictions and agencies to acquire a regional fair share housing allocation that reflects existing and future needs.	Here, the Project is inconsistent given it includes no residential uses, much less affordable.
Combating Gentrification and Displacement: Adding to the local housing stock rather than maintaining the current stock by changing the residential population, as well as pursuing the production of permanent affordable housing that will provide some units for affordable to lower-income households.	Here, the Project provides no residential uses and therefore adds no additional housing stock, much less affordable.
Provide More Options for Short Trips: Given 38 percent of all trips in the SCAG region are less than three miles, projects that further policies that encourage replacing motor vehicle use with Neighborhood Electric Vehicle (“NEV”) is encouraged. These land use policies shifting retail growth from large centralized retail strip malls to smaller distributed centers and the creation of these mixed-use districts by co-locating housing, employment, and a mix of retail and services that meet most daily needs of local residents with the opportunity to patronize their local area and run daily errands by walking or cycling rather than traveling by automobile.	Here, the Project fails to encourage electric vehicle use. While the DEIR claims that the Project is consistent with various GHG reduction plans, including this one, it fails to provide any additional information about policies or programs it will implement.
Transportation Network Strategies⁴⁶	
Transit Fare Discounts: Incorporating strategies such as encourage transit fare discounts and local vendor product and service discounts for residents and employees of TOD/HQTAs, or for a jurisdiction’s local residents in general who have fare media.	Here, the Project claims consistency because “all parking would be valet only” (p. IV.C-62). However, this fails to provide or encourage transit fare discounts, local vendor product and service discounts, or for the local residents who have fare media.
Transit Integration Strategies: This refers to a suite of strategies designed to better integrate active transportation and transit by improving access for pedestrians, bicyclists and other people traveling under their own power around transit stations. Strategies include: <ul style="list-style-type: none"> • Bike share services in closely packed bike rental kiosks in heavily urbanized areas designed to replace short-distance motor vehicle trips, reduce parking demand and complement local bus services such as DASH in the City of Los Angeles; • Education/encouragement campaigns such as advertising, public service announcements and 	Here, while the Project includes the existing Long Beach Bike Share station, it does nothing to improve upon or increase its accessibility. Furthermore, the DEIR fails to mention any sort of education or encouragement campaigns.

<p>media kits designed to educate the public on the importance of safety.</p>	
<p>Transportation Demand Management (TDM) Strategies⁴⁷</p>	
<p>Expand and encourage the implementation of TDM strategies to their fullest extent such as:</p> <ul style="list-style-type: none"> • Rideshare incentives and rideshare matching • Parking management and parking cash-out policies • Preferential parking or parking subsidies for carpoolers, • Intelligent parking programs, • Promotion and expansion of Guaranteed Ride Home programs, • Incentives for telecommuting and flexible work schedules, • Integrated mobility hubs and first/last mile strategies, • Incentives for employees who bike and walk to work, • Investments in active transportation infrastructure, and • Investments in Safe Routes to School programs and infrastructure. 	<p>Here, the DEIR provides a Transportation Demand Management Plan in Appendix E.3 of the DEIR. However, they are only suggestive and fails to set any specific performance metric.</p>
<p>Clean Vehicle Technology Strategies⁴⁸</p>	
<p>NEVs: Support sub-regional strategies to develop infrastructure and supportive land uses to accelerate fleet conversion to electric technologies, zero-emissions vehicles, and Neighborhood Electric Vehicles (“NEVs”).</p>	<p>Here, the DEIR relies on not conflicting with various plans and policies, including this one, to show compliance. However, the DEIR fails to include specific programs that the Project will implement regarding electric technologies, zero-emissions vehicles, and NEVs.</p>
<p>Anticipating Shared Mobility Platforms, Car-To-Car Communication, and Automated Vehicle Technologies: Shared Mobility encompasses a wide range of services including Return Trip Car Sharing, Point-to-Point Car Sharing, Peer-to-Peer Car Sharing, Ridesourcing, Dynamic On-Demand</p>	<p>Here, the Project models vehicle trips assuming ridesharing and on-demand transportation such as Uber and Lyft, but claims “[t]his assumption is based on the urban location of the Project Site, the proposed land uses, and the movement towards a shared economy transportation system” (p. IV.E-20).</p>
<p>Private Transit, Vanpool and Private Employer Charters.</p>	<p>However, the DEIR fails to include any Project-specific programs, and instead relies on the trends of the area in which it exists.</p>

⁴⁴ SCAG (Apr. 2016) 2016 RTP/SCS, p. 8, 15, 69, 75-115, 153, 166, <http://scagrtpscscs.net/Documents/2016/final/f2016RTPSCS.pdf>.

⁴⁵ SCAG 2012 RTP/SCS, *supra* fn. 43, Tbls. 4.3–4.7; *see also* SCAG 2016 RTP/SCS, *supra* fn. 44, p. 75-114.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

Response to Comment No. 7-88

Regarding the standard of the analysis applicable to plan consistency and the Project's demonstration of consistency with plans, generally, see Response to Comment No. 7-87, above. Regarding the Project's consistency with 2016–2020 SCAG RTP/SCS, see Draft EIR pp. IV.C-47 through IV.C-50. Regarding the Project's EV use, see Response to Comment No. 7-87, above. With respect to affordable housing issues, CEQA Guidelines Section 15131 states that “[e]conomic or social effects of a project shall not be treated as significant effects on the environment,” which is supported by Guidelines Section 15064. Thus, the affordability of housing is not an environmental issue relevant to a CEQA analysis. Regarding transit fare discounts and transit integration, it is important to note that the Project is a hotel project and is not a residential building. With respect to employees and guests of the Project, the Project's TDM program provides car share parking, pre-loaded transit cards/bike share passes, and in-room information regarding transit options, among other measures regarding transit fares, and pedestrian improvements, bicycle parking and other bicycle facilities, a transit-oriented lobby, and improved wayfinding. (Draft EIR, at p. IV-E.26.) Finally, the claims in the comment that it is unreasonable to assume that rideshare will be used by the Project are baseless and out of touch with the prevalence of the use of ridesharing apps. Regardless, the Project will facilitate ridesharing by providing dedicated rideshare pickup areas. Thus, the Project is either consistent with the alleged policy of the RTP/SCS, or the policy is not relevant to the Project or its CEQA analysis.

Comment No. 7-89

The following optional, project-level GHG reduction measures outlined in SCAG's RTP/SCS were also not addressed in the DEIR:

SCAG's RTP/SCS Optional Project-Level Environmental Mitigation Measures⁴⁹

For both the 2012 and 2016 RTP/SCS, SCAG prepared Program Environmental Impact Reports (“PEIR”) that include Mitigation Monitoring and Reporting Programs (“MMRP”) that list project-level environmental mitigation measures that directly and/or indirectly relate to a project's GHG impacts and contribution to the region's GHG emissions.⁵⁰ These *optional* environmental mitigation measures serve to help local municipalities when identifying mitigation to reduce impacts on a project-specific basis that can and should be implemented when they identify and mitigate project-specific environmental impacts.⁵¹ The DEIR should be recirculated to consider consistency with and/or implementation of the following project-level measures recommended as part of SCAG's RTP/SCS to reduce project-level GHG emissions.

GHG Emissions

- Reduction in emissions resulting from a project through implementation of project features, project design, or other measures, such as those described in Appendix F of the State CEQA Guidelines,⁵² such as:
 - Potential measures to reduce wasteful, inefficient and unnecessary consumption of energy during construction, operation, maintenance and/or removal. The discussion should explain why certain measures were incorporated in the project and why other measures were dismissed.

- The potential siting, orientation, and design to minimize energy consumption, including transportation energy.
- The potential for reducing peak energy demand.
- Alternate fuels (particularly renewable ones) or energy systems.
- Energy conservation which could result from recycling efforts.
- Off-site measures to mitigate a project’s emissions.
- Measures that consider incorporation of Best Available Control Technology (BACT) during design, construction and operation of projects to minimize GHG emissions, including but not limited to:
 - Use energy and fuel-efficient vehicles and equipment;
 - Deployment of zero- and/or near zero emission technologies;
 - Use cement blended with the maximum feasible amount of flash or other materials that reduce GHG emissions from cement production;
 - Incorporate design measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse;
 - Incorporate design measures to reduce energy consumption and increase use of renewable energy;
 - Incorporate design measures to reduce water consumption;
 - Use lighter-colored pavement where feasible;
 - Recycle construction debris to maximum extent feasible;
- Adopting employer trip reduction measures to reduce employee trips such as vanpool and carpool programs, providing end-of-trip facilities, and telecommuting programs.
- Designate a percentage of parking spaces for ride-sharing vehicles or high-occupancy vehicles, and provide adequate passenger loading and unloading for those vehicles;
- Land use siting and design measures that reduce GHG emissions, including:
 - Measures that increase vehicle efficiency, encourage use of zero and low emissions vehicles, or reduce the carbon content of fuels, including constructing or encouraging construction of electric vehicle charging stations or neighborhood electric vehicle networks, or charging for electric bicycles; and
 - Measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse.

⁴⁹ SCAG 2012 RTP/SCS (Mar. 2012) Final PEIR MMRP, p. 6-2–6-14 (including mitigation measures (“MM”) AQ3, BIO/OS3, CUL2, GEO3, GHG15, HM3, LU14, NO1, POP4, PS12, TR23, W9 [stating “[l]ocal agencies can and should comply with the requirements of CEQA to mitigate impacts to [the environmental] as applicable and feasible... [and] may refer to Appendix G of this PEIR for examples of potential mitigation to consider when appropriate in reducing environmental impacts of future projects.” (Emphasis added)]), <http://rtpscscs.scag.ca.gov/Documents/peir/2012/final/Final2012PEIR.pdf>; see also *id.*, Final PEIR Appendix G (including MMs AQ1-23, GHG1-8, PS1-104, TR1-83, W1-62), <http://rtpscscs.scag.ca.gov/Documents/peir/2012/final/2012fPEIR AppendixG ExampleMeasures.pdf>; see also SCAG 2016 RTP/SCS (Mar. 2016) Final PEIR MMRP, p. 11–63 (including MMs AIR-2(b), AIR-4(b), EN-2(b), GHG-3(b), HYD-1(b), HYD-2(b), HYD-8(b), TRA-1(b), TRA-2(b), USS-4(b), USS-6(b)), <http://scagrtpscs.net/Documents/2016/peir/final/2016fPEIR ExhibitB MMRP.pdf>.

⁵⁰ *Ibid.*, p. 116-124; see also SCAG 2012 RTP/SCS, *supra* fn. 43, p. 77-86; see also SCAG 2016 RTP/SCS, *supra* fn. 44, p. 77-86, 115-124.

⁵¹ *Ibid.*

⁵² CEQA Guidelines, Appendix F-Energy Conservation, http://resources.ca.gov/ceqa/guidelines/Appendix_F.html.

Response to Comment No. 7-89

The comment asserts that certain voluntary mitigation measures of from the 2016–2040 RTP/SCS were not addressed in the Draft EIR. As an initial matter, mitigation measures are only required under CEQA to reduce significant impacts on the environment. (CEQA Guidelines Section 15070(b); *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 495.) The comment does not identify what allegedly significant impact this mitigation is meant to address, and therefore fails to demonstrate that the specific mitigation measures identified should or must have been incorporated into the Project. Furthermore, the comment fails to address the fact that the Project already meets a number of the different strategies identified in the cited voluntary mitigation measures. Regarding energy consumption, the Project includes a variety of energy conservation and efficiency measures as sustainability features. (Draft EIR at p. 1-10.) The Project is also going to achieve the LEED Silver® energy efficiency standard. (See Draft EIR, at pp. 1-52 and 53.) These measures include a number of the same measures included in the mitigation measure identified by the commenter.

Comment No. 7-90***Hydrology & Water Quality***

- Incorporate measures consistent in a manner that conforms to the standards set by regulatory agencies responsible for regulating water quality/supply requirements, such as:
 - Reduce exterior consumptive uses of water in public areas, and should promote reductions in private homes and businesses, by shifting to drought-tolerant native landscape plantings (xeriscaping), using weather-based irrigation systems, educating other public agencies about water use, and installing related water pricing incentives.
 - Promote the availability of drought-resistant landscaping options and provide information on where these can be purchased. Use of reclaimed water especially in median landscaping and hillside landscaping can and should be implemented where feasible.
 - Implement water conservation best practices such as low-flow toilets, water-efficient clothes washers, water system audits, and leak detection and repair.
 - Ensure that projects requiring continual dewatering facilities implement monitoring systems and long-term administrative procedures to ensure proper water management that prevents degrading of surface water and minimizes, to the greatest extent possible, adverse impacts on groundwater for the life of the project. Comply with appropriate building codes and standard practices including the Uniform Building Code.
 - Maximize, where practical and feasible, permeable surface area in existing urbanized areas to protect water quality, reduce flooding, allow for groundwater recharge, and preserve wildlife habitat. Minimized new impervious surfaces to the greatest extent possible, including the use of in-lieu fees and off-site mitigation.
 - Avoid designs that require continual dewatering where feasible.
 - Where feasible, do not site transportation facilities in groundwater recharge areas, to prevent conversion of those areas to impervious surface.
- Incorporate measures consistent in a manner that conforms to the standards set by regulatory agencies responsible for regulating and enforcing water quality and waste discharge requirements, such as:
 - Complete, and have approved, a Stormwater Pollution Prevention Plan (“SWPPP”) before initiation of construction.

- Implement Best Management Practices to reduce the peak stormwater runoff from the project site to the maximum extent practicable.
- Comply with the Caltrans stormwater discharge permit as applicable; and identify and implement Best Management Practices to manage site erosion, wash water runoff, and spill control.
- Complete, and have approved, a Standard Urban Stormwater Management Plan, prior to occupancy of residential or commercial structures.
- Ensure adequate capacity of the surrounding stormwater system to support stormwater runoff from new or rehabilitated structures or buildings.
- Prior to construction within an area subject to Section 404 of the Clean Water Act, obtain all required permit approvals and certifications for construction within the vicinity of a watercourse (e.g., Army Corps § 404 permit, Regional Waterboard § 401 permit, Fish & Wildlife § 401 permit).
- Where feasible, restore or expand riparian areas such that there is no net loss of impervious surface as a result of the project.
- Install structural water quality control features, such as drainage channels, detention basins, oil and grease traps, filter systems, and vegetated buffers to prevent pollution of adjacent water resources by polluted runoff where required by applicable urban stormwater runoff discharge permits, on new facilities.
- Provide structural stormwater runoff treatment consistent with the applicable urban stormwater runoff permit where Caltrans is the operator, the statewide permit applies.
- Provide operational best management practices for street cleaning, litter control, and catch basin cleaning are implemented to prevent water quality degradation in compliance with applicable stormwater runoff discharge permits; and ensure treatment controls are in place as early as possible, such as during the acquisition process for rights-of-way, not just later during the facilities design and construction phase.
- Comply with applicable municipal separate storm sewer system discharge permits as well as Caltrans' stormwater discharge permit including long-term sediment control and drainage of roadway runoff.
- Incorporate as appropriate treatment and control features such as detention basins, infiltration strips, and porous paving, other features to control surface runoff and facilitate groundwater recharge into the design of new transportation projects early on in the process to ensure that adequate acreage and elevation contours are provided during the right-of-way acquisition process.
- Design projects to maintain volume of runoff, where any downstream receiving water body has not been designed and maintained to accommodate the increase in flow velocity, rate, and volume without impacting the water's beneficial uses. Pre-project flow velocities, rates, and volumes must not be exceeded. This applies not only to increases in stormwater runoff from the project site, but also to hydrologic changes induced by flood plain encroachment. Projects should not cause or contribute to conditions that degrade the physical integrity or ecological function of any downstream receiving waters.
- Provide culverts and facilities that do not increase the flow velocity, rate, or volume and/or acquiring sufficient storm drain easements that accommodate an appropriately vegetated earthen drainage channel.
- Upgrade stormwater drainage facilities to accommodate any increased runoff volumes. These upgrades may include the construction of detention basins or structures that will delay peak flows and reduce flow velocities, including expansion and restoration of wetlands and riparian buffer areas. System designs shall be completed to eliminate increases in peak flow rates from current levels.
- Encourage Low Impact Development (“LID”) and incorporation of natural spaces that reduce, treat, infiltrate and manage stormwater runoff flows in all new developments, where practical and feasible.
- Incorporate measures consistent with the provisions of the Groundwater Management Act and implementing regulations, such as:
 - For projects requiring continual dewatering facilities, implement monitoring systems and long-term administrative procedures to ensure proper water management that prevents degrading of surface water and minimizes, to the greatest extent possible, adverse impacts on groundwater for the life of the

project, Construction designs shall comply with appropriate building codes and standard practices including the Uniform Building Code.

- Maximize, where practical and feasible, permeable surface area in existing urbanized areas to protect water quality, reduce flooding, allow for groundwater recharge, and preserve wildlife habitat. Minimize to the greatest extent possible, new impervious surfaces, including the use of in-lieu fees and off-site mitigation.
- Avoid designs that require continual dewatering where feasible.
- Avoid construction and siting on groundwater recharge areas, to prevent conversion of those areas to impervious surface.
- Reduce hardscape to the extent feasible to facilitate groundwater recharge as appropriate.
- Incorporate mitigation measures to ensure compliance with all federal, state, and local floodplain regulations, consistent with the provisions of the National Flood Insurance Program, such as:
 - Comply with Executive Order 11988 on Floodplain Management, which requires avoidance of incompatible floodplain development, restoration and preservation of the natural and beneficial floodplain values, and maintenance of consistency with the standards and criteria of the National Flood Insurance Program.
 - Ensure that all roadbeds for new highway and rail facilities be elevated at least one foot above the 100-year base flood elevation. Since alluvial fan flooding is not often identified on FEMA flood maps, the risk of alluvial fan flooding should be evaluated and projects should be sited to avoid alluvial fan flooding. Delineation of floodplains and alluvial fan boundaries should attempt to account for future hydrologic changes caused by global climate change.

Response to Comment No. 7-90

The comment asserts that certain voluntary mitigation measures of from the 2016–2040 RTP/SCS were not addressed in the Draft EIR. As an initial matter, mitigation measures are only required under CEQA to reduce significant impacts on the environment. (CEQA Guidelines Section 15070(b); *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 495.) The comment does not identify what allegedly significant impact this mitigation is meant to address, and therefore fails to demonstrate that the identified mitigation measures should or must have been incorporated into the Project. Regarding water efficiency, the Project includes a variety of water conservation and efficiency measures as sustainability features. (Draft EIR at p. I-11.) Regarding stormwater, the Project include water quality sustainability features, including the requirement to develop a Low Impact Development plan, and a stormwater capture and reuse system. (Draft EIR at pp. I-11 and I-12.) The Project incorporates additional sustainability features for solid waste, and will comply with all applicable Title 24 standards. These Project sustainability features include a number of the same measures and additional measures that accomplish the same or similar purposes included in the mitigation measure identified by the commenter.

Comment No. 7-91***Transportation, Traffic, and Safety***

- Institute teleconferencing, telecommute and/or flexible work hour programs to reduce unnecessary employee transportation.
- Create a ride-sharing program by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading for ride sharing vehicles, and providing a web site or message board for coordinating rides.
- Provide a vanpool for employees.
- Provide a Transportation Demand Management (TDM) plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. The TDM shall include strategies to increase bicycle, pedestrian, transit, and carpools/vanpool use, including:
 - Inclusion of additional bicycle parking, shower, and locker facilities that exceed the requirement.
 - Direct transit sales or subsidized transit passes.
 - Guaranteed ride home program.
 - Pre-tax commuter benefits (checks).
 - On-site car-sharing program (such as City Car Share, Zip Car, etc.).
 - On-site carpooling program.
 - Distribution of information concerning alternative transportation options.
 - Parking spaces sold/leased separately.
 - Parking management strategies; including attendant/valet parking and shared parking spaces.
- Promote ride sharing programs e.g., by designating a certain percentage of parking spaces for high-occupancy vehicles, providing larger parking spaces to accommodate vans used for ride-sharing, and designating adequate passenger loading and unloading and waiting areas.
- Encourage the use of public transit systems by enhancing safety and cleanliness on vehicles and in and around stations, providing shuttle service to public transit, offering public transit incentives and providing public education and publicity about public transportation services.
- Build or fund a major transit stop within or near transit development upon consultation with applicable CTCs.
- Work with the school districts to improve pedestrian and bike access to schools and to restore or expand school bus service using lower-emitting vehicles.
- Purchase, or create incentives for purchasing, low or zero-emission vehicles.
- Provide the necessary facilities and infrastructure to encourage the use of low or zero-emission vehicles.
- Promote ride sharing programs, if determined feasible and applicable by the Lead Agency, including:
 - Designate a certain percentage of parking spaces for ride-sharing vehicles.
 - Designate adequate passenger loading, unloading, and waiting areas for ride-sharing vehicles.
 - Provide a web site or message board for coordinating shared rides.
 - Encourage private, for-profit community car-sharing, including parking spaces for car share vehicles at convenient locations accessible by public transit.
 - Hire or designate a rideshare coordinator to develop and implement ridesharing programs.
- Support voluntary, employer-based trip reduction programs, if determined feasible and applicable by the Lead Agency, including:
 - Provide assistance to regional and local ridesharing organizations.
 - Advocate for legislation to maintain and expand incentives for employer ridesharing programs.
 - Require the development of Transportation Management Associations for large employers and commercial/ industrial complexes.
 - Provide public recognition of effective programs through awards, top ten lists, and other mechanisms.

- Implement a “guaranteed ride home” program for those who commute by public transit, ride-sharing, or other modes of transportation, and encourage employers to subscribe to or support the program.
- Encourage and utilize shuttles to serve neighborhoods, employment centers and major destinations.
- Create a free or low-cost local area shuttle system that includes a fixed route to popular tourist destinations or shopping and business centers.
- Work with existing shuttle service providers to coordinate their services.
- Facilitate employment opportunities that minimize the need for private vehicle trips, such as encourage telecommuting options with new and existing employers, through project review and incentives, as appropriate.
- Organize events and workshops to promote GHG-reducing activities.
- Implement a Parking Management Program to discourage private vehicle use, including:
 - Encouraging carpools and vanpools with preferential parking and a reduced parking fee.
 - Institute a parking cash-out program or establish a parking fee for all single-occupant vehicles.

Response to Comment No. 7-91

The comment asserts that certain voluntary mitigation measures of from the 2016–2040 RTP/SCS were not addressed in the Draft EIR. As an initial matter, mitigation measures are only required under CEQA to reduce significant impacts on the environment. (CEQA Guidelines Section 15070(b); *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 495.) The comment does not identify what allegedly significant impact this mitigation is meant to address, and therefore fails to demonstrate that the identified mitigation measures should or must have been incorporated into the Project. Regarding transportation, the Project incorporates two Project Design Features TRA-1, requiring the preparation of a detailed construction management plan, and PDF TRA-2, which requires the implementation of Transportation Demand Management measures. These Project Design Features include a number of the same measures and additional measures that accomplish the same or similar purposes included in the mitigation measure identified by the commenter.

Comment No. 7-92

Utilities & Service Systems

- Integrate green building measures consistent with CALGreen (Title 24, part 11), U.S. Green Building Council’s Leadership in Energy and Environmental Design, energy Star Homes, Green Point Rated Homes, and the California Green Builder Program into project design including, but not limited to the following:
 - Reuse and minimization of construction and demolition (C&D) debris and diversion of C&D waste from landfills to recycling facilities.
 - Inclusion of a waste management plan that promotes maximum C&D diversion.
 - Development of indoor recycling program and space.
 - Discourage exporting of locally generated waste outside of the SCAG region during the construction and implementation of a project. Encourage disposal within the county where the waste originates as much as possible. Promote green technologies for long-distance transport of waste (e.g., clean engines and clean locomotives or electric rail for waste-by-rail disposal systems) and consistency with

SCAQMD and 2016 RTP/SCS policies can and should be required.

- Develop ordinances that promote waste prevention and recycling activities such as: requiring waste prevention and recycling efforts at all large events and venues; implementing recycled content procurement programs; and developing opportunities to divert food waste away from landfills and toward food banks and composting facilities.
- Develop alternative waste management strategies such as composting, recycling, and conversion technologies.
- Develop and site composting, recycling, and conversion technology facilities that have minimum environmental and health impacts.
- Require the reuse and recycle construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard).
- Integrate reuse and recycling into residential industrial, institutional and commercial projects.
- Provide recycling opportunities for residents, the public, and tenant businesses.
- Provide education and publicity about reducing waste and available recycling services.
- Implement or expand city or county-wide recycling and composting programs for residents and businesses. This could include extending the types of recycling services offered (e.g., to include food and green waste recycling) and providing public education and publicity about recycling services.

Response to Comment No. 7-92

This comment is addressed in Response to Comment No. 7-90, above.

Comment No. 7-93

4) Failure to Demonstrate Additionality

As discussed above, the Project solely relies upon compliance with select local, state, and regional objectives, namely the 2008 CARB scoping plan and updates, SCAG’s 2016–2014 RTP/SCS, the City of Long Beach’s Sustainable City Action Plan (p. I-42). This is inadequate, as projects must incorporate emissions reductions measures beyond those that comprise basic requirements. The California Supreme Court has made clear that just because “a project is designed to meet high building efficiency and conservation standards... does not establish that its [GHG] emissions from transportation activities lack significant impacts.” *Center for Biological Diversity v. Cal. Dept. of Fish and Wildlife* (“Newhall Ranch”) (2015) 62 Cal.4th 204, 229 (citing Natural Resources Agency).⁵³ This concept is known as “additionality” whereby GHG emission reductions otherwise required by law or regulation are appropriately considered part of the baseline and, pursuant to CEQA Guideline § 15064.4(b)(1), a new project’s emissions should be compared against that existing baseline.⁵⁴ Hence, a “project should not subsidize or take credit for emissions reductions which would have occurred regardless of the project.”⁵⁵ In short, as observed by the Court, newer developments must be more GHG-efficient. See *Newhall Ranch*, 62 Cal.4th at 226.

- ⁵³ See Final Statement of Reasons for Regulatory Action: Amendments to State CEQA Guidelines Addressing Analysis and Mitigation of GHG Emissions Pursuant to SB-97 (“*Final Statement of Reasons*”) Dec. 2009, http://resources.ca.gov/ceqa/docs/Final_Statement_of_Reasons.pdf, p. 23 See Resources Agency (Dec. 2009), *supra* fn. 36, p. 23 (while a Platinum LEED® rating may be relevant to emissions from a building’s energy use, “that performance standard may not reveal sufficient information to evaluate transportation-related emissions associated with that proposed project”).
- ⁵⁴ See Final Statement of Reasons, *Ibid.*, p. 89; see also California Air Pollution Control Officers Association (“*CAPCOA*”) (Aug. 2010) Quantifying Greenhouse Gas Mitigation Measures, pp. 32, A3, <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf> p. 32, A3 (“in practice is that if there is a rule that requires, for example, increased energy efficiency in a new building, the project proponent cannot count that increased efficiency as a mitigation or credit unless the project goes beyond what the rule requires; and in that case, only the efficiency that is in excess of what is required can be counted.”), <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>.
- ⁵⁵ CAPCOA (Aug 2010) Quantifying Greenhouse Gas Mitigation Measures, p. 433, <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>

Response to Comment No. 7-93

The comment asserts that the Draft EIR ignores “additionality” in analyzing GHG emissions, which it states mean measures that go beyond regulatory requirements. As an initial matter, the comment mischaracterizes statements by the Supreme Court in *Center for Biological Diversity v. Cal. Dept. of Fish and Wildlife* (“Newhall Ranch”) (2015) 62 Cal.4th 204, 229-230. In the cited portion of the case, the court did not say that a project must do more than comply with regulatory standards regarding GHG emissions to ensure it results in less than significant GHG impacts. Rather, in the quoted language, the Court was merely making the commonsense statement that an analysis of consistency with government regulations on building efficiency does not address impacts regarding transportation, i.e., it is the duty of a lead agency to ensure it analyzes a Project’s GHG impacts with appropriate comprehensiveness. Moreover, Government Code Section 15064.4(b)(3) expressly allows a lead agency to base its significance determination on a Project’s compliance with applicable regulatory standards and requirements. The comment does not assert the Project’s GHG analysis failed to analyze some key area of GHG emissions, it merely asserts incorrectly that that Project does not do more than take advantage of GHG reduction measures it would have to do anyway. As an initial matter, the statement is not accurate: the Project includes voluntary sustainability features, design features including a TDM program, and LEED Silver® certification that are not regulatory requirements, but are rather voluntary measures designed into and taken on by the Project that are demonstrated through an informational qualitative analysis to result in GHG emissions reductions. (Draft EIR at pp. I-10–12; I-52–53; IV.C-43–44.) Beyond these additional design and sustainability features, inherent characteristics of the Project align with GHG reduction goals and requirements, including those under CAPCOA guidance, AB 32, and the RTP/SCS. Rather than “doing the minimum,” the location and characteristics of the Project, including the fact that the Project adds density in an appropriate location in proximity to transit in a walkable area (which the Project will improve) are critical factors in

the assessment of the Project's potential GHG impacts. They are not regulatory compliance measures that should be part of the Project's baseline, but changes to the environment that would be brought about by the Project itself. Thus the Project complies with GHG-reduction regulations, provides additional sustainability and design features that are not required by regulations that reduce GHG emissions, and contains inherent characteristics consistent with planning guidance documents and regulations for the reduction of GHG emissions.

Comment No. 7-94

The Project fails to provide more aggressive mitigation measures required for newer developments to reach Assembly Bill 32's long-term goals—such as the net-zero approach utilized in the wake of the Supreme Court's *Newhall Ranch* decision. See *Center for Biological Diversity v. Cal. Dept. of Fish and Wildlife* (2015) 62 Cal.4th 204, 226 (“a greater degree of reduction may be needed from new land use projects...”); see also *Californians for Alternatives to Toxics v. Department of Food and Agriculture* (2005) 136 Ca1.App.4th 1, 17 (“[c]ompliance with the law is not enough to support a finding of no significant impact under the CEQA.”). Additional reduction efforts should be required for the Project, including those new, feasible mitigation measures found in CAPCOA's Quantifying Greenhouse Gas Mitigation Measures, which attempt to reduce GHG levels.

Response to Comment No. 7-94

This comment is addressed in Response to Comment No. 7-93, above.

Comment No. 7-95

5) DEIR's Incorrect and Unsubstantiated Analysis Demonstrates Significant GHG Impact

In addition to the Project's incorrect reliance upon consistency with various plans and regulations to determine Project significance, the DEIR fails to compare the Project's annual GHG emissions to the applicable SCAQMD interim thresholds. While the DEIR does quantify the Project's GHG emissions to get a “combined total of 4,284 MTCO_{2e} per year”, it completely fails to compare this number to applicable thresholds (p. I-42).

Response to Comment No. 7-95

The commenter is incorrect in suggesting the significance threshold set forth in the Draft EIR does not comply with CEQA's requirements for a GHG analysis. CEQA Guidelines Sections 15064(a)(1) and (2) authorize the lead agency to use a model or methodology to quantify a project's GHG emissions as well as to rely on qualitative

analyses. Further, CEQA Guidelines Section 15064.4 provides lead agencies the discretion to establish significance thresholds for their respective jurisdictions.²³ Detailed explanation on how the GHG significance threshold was determined is presented on pages IV.C-41 through 43 of the Draft EIR.

Page IV.C-43 in Section IV.C, Greenhouse Gas Emissions, of the Draft EIR appropriately uses the following significance threshold:

In the absence of any adopted, numeric threshold, the significance of the Project's GHG emissions is evaluated consistent with CEQA Guidelines Section 15064.4(b)(2) by considering whether the Project complies with applicable regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. For this Project, as a land use development project, the most directly applicable adopted regulatory plan to reduce GHG emissions is the 2016–2040 RTP/SCS, which is designed to achieve regional GHG reductions from the land use and transportation sectors as required by SB 375 and the State's long-term climate goals. This analysis also considers consistency with regulations or requirements adopted by the 2008 Climate Change Scoping Plan and subsequent plans and the City of Long Beach's Sustainability City Action Plan.

Please refer to Tables IV.C-6, IV.C-7, and IV.C-8 on pages IV.C-53 through IV.C-59, IV.C-60 through IV.C-65, and IV.C-71, respectively, for detailed evaluations of Project consistency or compliance with applicable plans, policies, and regulations with regard to GHG emissions. Furthermore, as discussed below in Response to Comment No. 96, use SCAQMD's proposed, but not adopted, 3,000 MTCO₂e/yr screening threshold for residential, commercial, and mixed-use developments, where a project would conduct a more detailed analysis using a per capita efficiency target if the project exceeded the 3,000-MTCO₂e/yr screening threshold. This comment's logic that the Draft EIR should have relied upon SCAQMD's draft threshold proposed nearly 10 years ago, and no further substantial action by SCAQMD has occurred during this time to seek approval of it as a GHG significance threshold is flawed. The Draft EIR did not use a numeric threshold, as neither the City of Long Beach nor SCAQMD has adopted a numeric threshold applicable to the Project. Instead, a significance determination was made based on the consistency with applicable regulatory plans and policies to reduce GHG emissions.

²³ Refer specifically to CEQA Guidelines Sections 15064(b) and 15064.4(b)(2).

Comment No. 7-96

The DEIR's approach is incorrect. In December 2008, the SCAQMD released its *Interim CEQA GHG Significance Threshold for Stationary Sources, Rules, and Plans* report ("*Interim Thresholds*") that proposed a multi-tiered approach for evaluating the GHG impacts of a project.⁵⁶ As subsequently clarified, the SCAQMD recommended that for projects not exempt from CEQA (Tier 1) or consistent with a qualified GHG reduction plan (Tier 2), lead agencies should compare a project's GHG emissions to numeric screening thresholds (Tier 3).⁵⁷ Under Tier 3, the lead agencies may choose between two options: Option 1 proposes the use of a 1,400 metric tons of carbon dioxide equivalents per year (MT CO₂e/yr) threshold for commercial developments, 3,000 MT CO₂e/yr threshold for mixed-use developments, a 3,500 MT CO₂e/yr threshold for residential developments, and a 10,000 MT CO₂e/yr threshold for industrial projects; whereas Option 2 proposes a single numerical threshold of 3,000 MT CO₂e/yr for non-industrial projects. Furthermore, according to SCAQMD's *GHG CEQA Significance Threshold Stakeholder Working Group #15*, the working group determined that while either the separate numerical thresholds (Option 1) or a single numerical threshold (Option 2) could be used, a lead agency "must consistently use that same option for all projects where it is lead agency."⁵⁸

⁵⁶ SCAQMD (December 2008) *Interim CEQA GHG Significance Threshold for Stationary Sources, Rules and Plans* [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/ghgboardsynopsis.pdf?sfvrsn=2](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgboardsynopsis.pdf?sfvrsn=2); see also SCAQMD (Oct 2008) *Draft Guidance Document—Interim CEQA Greenhouse Gas (GHG) Significance Threshold*, [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/ghgattachmente.pdf](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgattachmente.pdf).

⁵⁷ SCAQMD (Sep. 28, 2010) *Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group # 15*, [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/year-2008-2009/ghg-meeting-15/ghg-meeting-15-minutes.pdf](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/year-2008-2009/ghg-meeting-15/ghg-meeting-15-minutes.pdf).

⁵⁸ *Ibid.*, p. 1.

Response to Comment No. 7-96

The Draft EIR did not use a numeric threshold, as neither the City of Long Beach nor SCAQMD has adopted a numeric threshold applicable to the Project. Instead, a significance determination was made based on consistency with applicable regulatory plans and policies to reduce GHG emissions, including SB 375, CARB's *Climate Change Scoping Plan* and subsequent plans, SCAG's 2016–2040 RTP/SCS, and the City of Long Beach's Sustainability City Action Plan.

On December 5, 2008, the SCAQMD Governing Board adopted the staff proposal for an interim 10,000 MTCO₂e/yr GHG significance threshold for projects where the SCAQMD is lead agency (e.g., stationary sources, rules, and plans). This comment references SCAQMD's proposed, but not adopted, 3,000 MTCO₂e/yr screening threshold

for residential, commercial, and mixed-use developments, where a project would conduct a more detailed analysis using a per capita efficiency target if the project exceeded the 3,000-MTCO_{2e}/yr screening threshold. This comment's logic that the Draft EIR should have relied upon SCAQMD's draft threshold proposed nearly 10 years ago, and no further substantial action by SCAQMD has occurred during this time to seek approval of it as a GHG significance threshold is flawed. The Draft EIR did not use a numeric threshold, as neither the City of Long Beach nor SCAQMD has adopted a numeric threshold applicable to the Project. Instead, a significance determination was made based on the consistency with applicable regulatory plans and policies to reduce GHG emissions.

Statewide GHG reduction goals target multiple sources of emissions such as transportation, energy usage, water usage and solid waste, all of which have different reduction targets. The use of a single numeric threshold would not be able to demonstrate how the Project would comply with reduction measures for each of the sources of GHG emissions. Therefore, the use of a qualitative threshold would be more informative and serves to demonstrate Project consistency with GHG reduction targets.

Comment No. 7-97

The DEIR quantifies the Project's annual GHG emissions and determines that emissions will reach a "combined total of 4,284 MTCO_{2e} per year" (p. I-42). Here, the Project is entirely commercial without any residential uses, thus, the Project's annual GHG emissions should be compared to the applicable SCAQMD interim threshold of 1,400 MTCO_{2e}/year for commercial projects under Tier 3 Option 1 analysis. As demonstrated in the below table, the Project exceeds this threshold. So too, the Project's emissions exceed SCAQMD's interim threshold of 3,000 MTCO_{2e}/year for mixed-use (Tier 3 Option 1) and SCAQMD's interim threshold of 3,000 MTCO_{2e}/year for non-industrial projects (Tier 3 Option 2) (see table below).

Annual Project Greenhouse Gas Emissions	
	Emissions (MT CO_{2e}/year)
Amortized Construction + Operational	4,284
SCAQMD Commercial Threshold	1,400
<i>Threshold Exceeded?</i>	<i>Yes</i>
SCAQMD Mixed-Use/Non-Industrial Threshold	3,000
<i>Threshold Exceeded?</i>	<i>Yes</i>

As the above table demonstrates, the Project exceeds even the higher SCAQMD threshold of 3,000 MTCO_{2e}/year—a threshold routinely used by the City for other hotel projects⁵⁹—and indicates significant impacts not previously identified or addressed by the DEIR.

⁵⁹ See e.g., Oceanaire Apartment project (Mar. 2013) IS/MND, p. 59-60, http://www.longbeach.gov/globalassets/lbds/media-library/documents/planning/environmental/environmental-reports/approved-certified-part-2/oceanaire-apartment/oceanaire_public-review-draft-is-mnd-reduce-size; 442 W. Ocean Blvd. project IS/MND, p. 57-58, http://www.longbeach.gov/globalassets/lbds/media-library/documents/planning/environmental/environmental-reports/approvedcertified/442-w.-ocean-blvd/442-ocean_public-review-draft-is-mnd; 207 Seaside Way project (Mar. 2015) IS/MND, p. 59-60, http://www.longbeach.gov/globalassets/lbds/media-library/documents/planning/environmental/environmental-reports/approvedcertified/207-seaside-way/207-seaside_public-review-draft-is-mnd; Staybridge Suite Hotel project IS/MND (Nov. 2016), p. 37-38, <http://www.longbeach.gov/globalassets/lbds/media-library/documents/planning/environmental/environmental-reports/approvedcertified-part-2/staybridge-suites-hotel/staybridge-suites-hotel-project-is-mnd>.

Response to Comment No. 7-97

Please refer to Response to Comment No. 7-96, above. This comment is misleading as it assumes the SCAQMD interim guidance has been formally adopted. As discussed in Response to Comment No. 7-96, the fact that the SCAQMD Governing Board considered the draft threshold in 2008, nearly a decade ago, and did not adopt it with no further action provides a strong rationale as to why the SCAQMD draft threshold should not be considered in the analysis of GHG emissions for the Project. CEQA does not require reliance on *draft* regulatory standards as significance thresholds.²⁴ Since the SCAQMD interim guidance was never adopted, substantial evidence supports the City's decision concerning the significance threshold for evaluating the Project's GHG emissions, particularly since, among other reasons, CEQA permits the use of qualitative significance thresholds.²⁵

Comment No. 7-98

Furthermore, according to the SCAQMD, if a project's emissions exceed the screening-level threshold, a more detailed review of the project's GHG emissions is warranted.⁶⁰ SCAQMD proposed per capita efficiency targets to be used in these detailed reviews. SCAQMD proposed a 2035 efficiency threshold of 3.0 MT CO₂e/SP/year for project-level analyses, which is based on AB 32's GHG reduction target.⁶¹ SCAQMD created the 2035 efficiency threshold by reducing the 2020 threshold of 4.8 MT CO₂e/SP/year by 40 percent. Therefore, per SCAQMD guidance, because the Project's GHG emissions exceed the SCAQMD's 1,400 MT CO₂e/year screening-level threshold (as well as the 3,000 MT CO₂e/year screening-level threshold routinely used by the City) and the DEIR asserts that the Project will not be operational until 2022, the Project's emissions should be compared to the proposed 2035 efficiency target of 3.0 MT CO₂e/SP/year (DEIR, I-22).

²⁴ Refer to CEQA Appendix G.

²⁵ Refer to CEQA Guidelines Sections 15064.4 and 15064.7.

⁶⁰ SCAQMD (12/5/08), *supra* fn. 56, p. 6; *see also* SCAQMD (9/28/10), *supra* fn. 57, p. 2.

⁶¹ SCAQMD (9/28/10), *supra* fn. 57, p. 2.

Response to Comment No. 7-98

Please refer to Response to Comment No. 7-96, above. This comment is misleading as it assumes the SCAQMD interim guidance has been formally adopted. As discussed in Response to Comment No. 7-96, the fact that the SCAQMD Governing Board considered the draft threshold in 2008, nearly a decade ago, and did not adopt it with no further action provides a strong rationale as to why the SCAQMD draft threshold should not be considered in the analysis of GHG emissions for the Project. CEQA does not require reliance on *draft* regulatory standards as significance thresholds.²⁶ Since the SCAQMD interim guidance was never adopted, substantial evidence supports the City's decision concerning the significance threshold for evaluating the Project's GHG emissions, particularly since, among other reasons, CEQA permits the use of qualitative significance thresholds.²⁷

Comment No. 7-99

According to CAPCOA's CEQA & Climate Change report, a service population is defined as "the sum of the number of residents and the number of jobs supported by the project."⁶² The DEIR states that the proposed Project will generate 588 new employees (p. I-45). This number is highly suspect given it is premised on a Long Beach Unified District Development Fee Study (DEIR, p. I-45 [fn. 26]), which derived an employee generation rate derived from a San Diego Traffic Generator report from 1990.⁶³ In practice, similar hotel projects including a variety of commercial uses and hotel amenities generate roughly an average 0.55 jobs per hotel room,⁶⁴ resulting in 236 operational jobs for this 429-room Project. Nevertheless, assuming the Project will create an overly optimistic 588 jobs, we assume that the Project's service population would be approximately 588 people because the proposed Project will have no permanent residents. Dividing the Project's GHG emissions by a service population value of 588 people, we find that the Project would emit approximately 7.28 MT CO₂e/SP/year.⁶⁵ When we compare the Project's per service population GHG emissions to the SCAQMD 2035 efficiency target of 3.0 MT CO₂e/SP/year, or even SCAQMD 2020 efficiency target of 4.8 MT CO₂e/SP/year, we find that the Project would result in a significant GHG impact (see table below)

²⁶ Refer to CEQA Appendix G.

²⁷ Refer to CEQA Guidelines Sections 15064.4 and 15064.7.

Annual Greenhouse Gas Emissions Efficiency		
Source	Project Emissions	Unit
DEIR Annual Emissions	4,284	MT CO ₂ e/year
Service Population	588	Residents & Employees
Per Service Population Annual Emissions	7.28	MT CO₂e/sp/year
2035 SCAQMD Project Level Efficiency Threshold	3.0	MT CO ₂ e/sp/year
Exceed?	Yes	-
2020 SCAQMD Project Level Efficiency Threshold	4.8	MT CO ₂ e/sp/year
Exceed?	Yes	-

⁶² CAPCOA (Jan. 2008) CEQA & Climate Change, p. 71-72, <http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA-White-Paper.pdf>.

⁶³ Long Beach Unified School District (3/7/18) Commercial/Industrial Development School Fee Justification Study, p. 9 (employee impact estimates are based on “employment generation factors were derived from the report entitled ‘San Diego Traffic Generators’ prepared by SANDAG[,]” prepared pursuant to Cal. Ed. Code § 17621(e)(1)(B)), http://www.lbschools.net/Asset/Files/Business_Services/Developer_Fees/2018/2018-Commercial-Fee-Justification-Study.pdf; see also Cal. Ed. Code § 17621(e)(1)(B) (“Those employee generation estimates shall be based upon commercial and industrial factors within the district or upon, in whole or in part, the applicable employee generation estimates set forth in the *January 1990* edition of “San Diego Traffic Generators,” a report of the San Diego Association of Governments.

⁶⁴ See e.g., Lizard Hotel project (City of Los Angeles Case No. ENV-2015-2356-EIR) Draft EIR, pp. 24 (120 employees for a 170-room hotel with 7,050-SF restaurant, 3,780-SF rooftop bar/lounge, 1,00-SF gym, 2,940-SF gallery bar, 12,460-SF of open space), <https://planning.lacity.org/eir/SpringStHotel/Deir/DEIR%20Sections/Spring%20St%20Hotel%20IV.E%20Greenhouse%20Gas%20Emissions.pdf> and <https://planning.lacity.org/eir/SpringStHotel/DEIR/DEIR%20Spring%20Street%20Hotel%20Project.html>; Bixel Mixed-Use Hotel project (City of Los Angeles Case No. ENV-2015-3927-MND) MND, pp. 1, 99, 205 (69 new employees for the 126-room extended stay hotel component with two underground parking levels, 8,313-SF open space and providing lounge entertainment, fitness area, and pool/outdoor lounge), http://cityplanning.lacity.org/staffrpt/mnd/Pub_102716/ENV-2015-3927.pdf; Selma Wilcox Hotel project (City of Los Angeles Case No. ENV-2016-2602-MND) MND, pp. 1, 144 (94 hotel jobs for the 114-room hotel with 26,000-plus-SF of restaurant, bar, pool, amenity deck, and rooftop bar uses), https://planning.lacity.org/staffrpt/mnd/Pub_010418/ENV-2016-2602.pdf.

⁶⁵ Calculated: (4,284 MT CO₂e/year) / (588 service population) = (7.28 MT CO₂e/SP/year).

Response to Comment No. 7-99

Please refer to Response to Comment No. 7-96, above. This comment is misleading as it assumes the SCAQMD interim guidance has been formally adopted. As discussed in Response to Comment No. 7-96, the fact that the SCAQMD Governing Board considered the draft threshold in 2008, nearly a decade ago, and did not adopt it with no further action provides a strong rationale as to why the SCAQMD draft threshold should not be considered in the analysis of GHG emissions for the Project. CEQA does not require

reliance on *draft* regulatory standards as significance thresholds.²⁸ Since the SCAQMD interim guidance was never adopted, substantial evidence supports the City's decision concerning the significance threshold for evaluating the Project's GHG emissions, particularly since, among other reasons, CEQA permits the use of qualitative significance thresholds.²⁹

Comment No. 7-100

Furthermore, even if you consider the hotel guests as part of the service population, the Project would still exceed applicable thresholds. Utilizing the 75 percent room occupancy rate used in the DEIR's Traffic Study (Appendix E, pp. 234),⁶⁶ and using a 1.5 person per room ratio used by the City of Los Angeles,⁶⁷ it can be estimated that the proposed 429-room Project will typically serve 483 hotel guests. Dividing the Project's GHG emissions by a service population value of 1,071 people (588 employees + 483 guests), we find that the Project would still emit approximately 4.0 MT CO₂e/SP/year (see table below)—which still exceeds SCAQMD 2035 efficiency target. So too, would it exceed the City's proposed efficiency target of 3.06 MT CO₂e/SP/year under its draft CAAP (see table below).⁶⁸

Annual Greenhouse Gas Emissions Efficiency		
Source	Project Emissions	Unit
DEIR Annual Emissions	4,284	MT CO ₂ e/year
Service Population	1,071	Residents & Employees & Guests
Per Service Population Annual Emissions	4.0	MT CO₂e/sp/year
2035 SCAQMD Project Level Efficiency Threshold	3.0	MT CO ₂ e/sp/year
<i>Exceed?</i>	Yes	-
2030 City Draft CAAP Level Efficiency Threshold	3.06	MT CO ₂ e/sp/year
<i>Exceed?</i>	Yes	-

⁶⁶ Roughly the same as the 80 percent occupancy rate widely reported in the City of Los Angeles. See City of Los Angeles (2017) Hotel Market Study, p. 3, 7, https://d3n8a8pro7vhm.cloudfront.net/cd14/pages/2723/attachments/original/1508870241/CD14_Hotel_Market_Study-2017_Full_Report-Final.pdf?1508870241; see also City of Los Angeles (2017) 2017 Annual Report, p. 6, <https://ctd.lacity.org/sites/default/files/2017%20CTD%20Annual%20Report.pdf>.

⁶⁷ Lizard Hotel project (City of Los Angeles Case No. ENV-2015-2356-EIR) Draft EIR, pp. 24, <https://planning.lacity.org/eir/SpringStHotel/Deir/DEIR%20Sections/Spring%20St%20Hotel%20IV.E%20Greenhouse%20Gas%20Emissions.pdf>.

²⁸ Refer to CEQA Appendix G.

²⁹ Refer to CEQA Guidelines Sections 15064.4 and 15064.7.

⁶⁸ City (5/31/19) Draft CAAP GHG Emissions, Forecasts and Targets, p. 16, <http://longbeach.gov/globalassets/lbds/media-library/documents/planning/caap/caap-greenhouse-gas--ghg--emissions-forecasts-and-targets--draft-released-053119-logos>; see also City (5/8/19) CAAP GHG Emissions Reduction Target Options Memo#2—2045 Carbon Neutrality, p. 26, http://www.longbeach.gov/globalassets/lbds/media-library/documents/planning/caap/190508_caap-target-setting-memo-2_2045-carbon-neutrality.

Response to Comment No. 7-100

Please refer to Response to Comment No. 7-96, above. This comment is misleading as it assumes the SCAQMD interim guidance has been formally adopted. As discussed in Response to Comment No. 7-96, the fact that the SCAQMD Governing Board considered the draft threshold in 2008, nearly a decade ago, and did not adopt it with no further action provides a strong rationale as to why the SCAQMD draft threshold should not be considered in the analysis of GHG emissions for the Project. CEQA does not require reliance on *draft* regulatory standards as significance thresholds.³⁰ Since the SCAQMD interim guidance was never adopted, substantial evidence supports the City's decision concerning the significance threshold for evaluating the Project's GHG emissions, particularly since, among other reasons, CEQA permits the use of qualitative significance thresholds.³¹

Comment No. 7-101

As illustrated by the above tables, the Project's GHG emissions will exceed thresholds considered to be normally significant. However, the DEIR incorrectly omits a quantitative GHG analysis that compares emissions to SCAQMD thresholds—including SCAQMD Tier 3 threshold for mixed-use/non-industrial projects (3,000 MT CO_{2e}/year), which has routinely been used by the City. The DEIR fails to provide any explanation, much less substantial evidence, why this threshold should not be used here.

Even so, these emissions are based on an incorrect and underestimated CalEEMod model (discussed supra). Thus, regardless of what is stated within the DEIR, the SCAQMD provides applicable interim GHG thresholds that can be used to determine the Project's significance when modeled correctly (as discussed below).

Response to Comment No. 7-101

Please refer to Response to Comment No. 7-96, above. This comment is misleading as it assumes the SCAQMD interim guidance has been formally adopted. As

³⁰ Refer to CEQA Appendix G.

³¹ Refer to CEQA Guidelines Sections 15064.4 and 15064.7.

discussed in Response to Comment No. 7-96, the fact that the SCAQMD Governing Board considered the draft threshold in 2008, nearly a decade ago, and did not adopt it with no further action provides a strong rationale as to why the SCAQMD draft threshold should not be considered in the analysis of GHG emissions for the Project. CEQA does not require reliance on *draft* regulatory standards as significance thresholds.³² Since the SCAQMD interim guidance was never adopted, substantial evidence supports the City's decision concerning the significance threshold for evaluating the Project's GHG emissions, particularly since, among other reasons, CEQA permits the use of qualitative significance thresholds.³³

As discussed in Response to Comment No. 7-59, SWAPE's estimation of mobile source emissions were calculated incorrectly as implementation of CAPCOA measures cited in Section IV.C, Greenhouse Gas Emissions, of the Draft EIR (page IV.C-67) were not input into the model correctly. The SWAPE CalEEMod analysis overestimated mobile source emissions by approximately 39 percent by not accounting for CAPCOA reduction measures (e.g., proximity to public transportation).

Comment No. 7-102

6) Updated Analysis Demonstrates Significant GHG Impact

Notwithstanding the flawed GHG evaluation discussed above, applicable thresholds and site-specific modeling demonstrate that the Project will have a significant GHG impact. The updated CalEEMod output files, modeled by SWAPE and attached hereto as Exhibit A, disclose the Project's mitigated emissions, which include approximately 2,972.96 MT CO₂e of total construction emissions and approximately 6,036.09 (sum of 2020, 2021, and 2022) MT CO₂e/year of annual operational emissions (sum of area, energy, mobile, waste, and water-related emissions). When these emissions are compared to the 1,400 MT CO₂e/year commercial and 3,000 mixed-use/non-industrial project threshold (SCAQMD Tier 3), we find that the Project's GHG emissions exceed the thresholds (see table on following page).

³² Refer to CEQA Appendix G.

³³ Refer to CEQA Guidelines Sections 15064.4 and 15064.7.

DEIR Annual Greenhouse Gas Emissions	
Project Phase	Proposed Project (MT CO₂e/year)
Construction (amortized over 30 years)	99.10
Area	0.016
Energy	2,116.08
Mobile	3,830.77
Stationary	1.38
Waste	0
Water	87.85
Total	6,135.19
SCAQMD Commercial Threshold	1,400
<i>Exceed?</i>	<i>Yes</i>
SCAQMD Mixed-Use/Non-Industrial Threshold	3,000
<i>Exceed?</i>	<i>Yes</i>

Response to Comment No. 7-102

As discussed above in Response to Comment No. 7-101, SWAPE's analysis misrepresents information in the Draft EIR and erroneously calculates a substantial increase in Project-related GHG emissions. As discussed above, this comment is misleading as it assumes the SCAQMD interim guidance has been formally adopted. As discussed in Response to Comment No. 7-96, the fact that the SCAQMD Governing Board considered the draft threshold in 2008, nearly a decade ago, and did not adopt it with no further action provides a strong rationale as to why the SCAQMD draft threshold should not be considered in the analysis of GHG emissions for the Project. CEQA does not require reliance on *draft* regulatory standards as significance thresholds.³⁴ Since the SCAQMD interim guidance was never adopted, substantial evidence supports the City's decision concerning the significance threshold for evaluating the Project's GHG emissions, particularly since, among other reasons, CEQA permits the use of qualitative significance thresholds.³⁵

³⁴ Refer to CEQA Appendix G.

³⁵ Refer to CEQA Guidelines Sections 15064.4 and 15064.7.

Comment No. 7-103

As demonstrated in the table above, the proposed Project would generate a total of approximately 6,135.19 MT CO₂e/year, which exceeds the SCAQMD's 1,400 MT CO₂e/year commercial project screening threshold, and SCAQMD's 3,000 MT CO₂e/year mixed-use/non-industrial project screening threshold. Hence, a Tier 4 analysis is warranted. When dividing the Project's GHG emissions by a service population value of 588 people (residents and employees), we find that the Project would emit approximately 10.43 MT CO₂e/SP/year.⁶⁹ This exceeds SCAQMD 2020 efficiency target of 4.8 MT CO₂e/SP/year, SCAQMD 2035 efficiency target of 3.0 MT CO₂e/SP/year, and even the City's 2030 proposed draft efficiency target of 3.06 MT CO₂e/SP/year (see table following page). So too would the Project exceed all thresholds if you included all hotel patrons for a service population of 1,071 people (588 employees + 483 hotel patrons), resulting in approximately 5.72 MT CO₂e/SP/year (see table following page).

Annual Greenhouse Gas Emissions Efficiency		
Source	Project Emissions	Unit
DEIR Annual Emissions	6,135.19	MT CO ₂ e/year
Service Population	588	Residents & Employees
Per Service Population Annual Emissions	10.43	MT CO₂e/sp/year
2020 SCAQMD Project Level Efficiency Threshold	4.8	MT CO ₂ e/sp/year
<i>Exceed?</i>	Yes	-
2035 SCAQMD Project Level Efficiency Threshold	3.0	MT CO ₂ e/sp/year
<i>Exceed?</i>	Yes	-
2030 City CAAP Level Efficiency Threshold	3.06	MT CO ₂ e/sp/year
<i>Exceed?</i>	Yes	-
Source	Project Emissions	Unit
DEIR Annual Emissions	6,135.19	MT CO ₂ e/year
Service Population	1,071	Residents & Employees & Guests
Per Service Population Annual Emissions	5.72	MT CO₂e/sp/year
2020 SCAQMD Project Level Efficiency Threshold	4.8	MT CO ₂ e/sp/year
<i>Exceed?</i>	Yes	-
2035 SCAQMD Project Level Efficiency Threshold	3.0	MT CO ₂ e/sp/year
<i>Exceed?</i>	Yes	-
2030 City Draft CAAP Level Efficiency Threshold	3.06	MT CO ₂ e/sp/year
<i>Exceed?</i>	Yes	-

As you can see in the table above, when we compare the Project's per service population emissions estimated by a CalEEMod-compliant model to the SCAQMD threshold of 4.8 and 3.0 MT CO₂e/SP/year for 2020 and 2035, respectively, and to the City's target of 3.06

MT CO₂e/SP/year for 2030, we find that the Project's emissions would exceed thresholds, thus, resulting in a potentially significant impact.

⁶⁹ Calculated: (6,135.19 MT CO₂e/year) / (588 service population) = (10.433 MT CO₂e/SP/year).

Response to Comment No. 7-103

Please refer to Response to Comment No. 7-96, above. This comment is misleading as it assumes the SCAQMD interim guidance has been formally adopted. As discussed in Response to Comment No. 7-96, the fact that the SCAQMD Governing Board considered the draft threshold in 2008, nearly a decade ago, and did not adopt it with no further action provides a strong rationale as to why the SCAQMD draft threshold should not be considered in the analysis of GHG emissions for the Project. CEQA does not require reliance on *draft* regulatory standards as significance thresholds.³⁶ Since the SCAQMD interim guidance was never adopted, substantial evidence supports the City's decision concerning the significance threshold for evaluating the Project's GHG emissions, particularly since, among other reasons, CEQA permits the use of qualitative significance thresholds.³⁷

Comment No. 7-104

According to CEQA Guidelines § 15064.4(b), if there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, a full CEQA analysis must be prepared for the project. The results of the above analysis provide substantial evidence that the proposed Project's GHG emissions are still cumulatively considerable notwithstanding its purported compliance with the City's Sustainability City Action Plan, SCAG's RTP/SCS, and the CARB 2017 Scoping Plan (as challenged herein). Therefore, an updated DEIR must be prepared for the Project, and additional mitigation should be implemented where necessary, per CEQA guidelines.

Response to Comment No. 7-104

Please refer to Response to Comment No. 7-96, above. This comment is misleading as it assumes the SCAQMD interim guidance has been formally adopted. As discussed in Response to Comment No. 7-96, the fact that the SCAQMD Governing Board considered the draft threshold in 2008, nearly a decade ago, and did not adopt it with no

³⁶ Refer to CEQA Appendix G.

³⁷ Refer to CEQA Guidelines Sections 15064.4 and 15064.7.

further action provides a strong rationale as to why the SCAQMD draft threshold should not be considered in the analysis of GHG emissions for the Project. CEQA does not require reliance on *draft* regulatory standards as significance thresholds.³⁸ Since the SCAQMD interim guidance was never adopted, substantial evidence supports the City's decision concerning the significance threshold for evaluating the Project's GHG emissions, particularly since, among other reasons, CEQA permits the use of qualitative significance thresholds.³⁹

The Draft EIR provides a thorough analysis of the Project's GHG impacts within Section IV.C, Greenhouse Gas Emissions. The analysis includes quantification of construction and operational GHG emissions, quantification of applicable reduction measures, and consistency with applicable local plans and policies. However, critically, the threshold of significance adopted by the City for analysis here is qualitative and based on the Project's consistency with appropriate laws, regulations, plans, and policies. Thus, the quantitative data and analysis is provided for informational purposes only, but nonetheless demonstrates with substantial evidence that the Project's consistency with applicable laws, regulations, plans, and policies in fact results in notable GHG emissions reductions.

The Project would surpass the performance-based standards included in the Green Building Code. Specifically, Project Design Feature GHG-PDF-1 would require the design of the new buildings to incorporate features to achieve the sustainability intent of the Silver Rating under the LEED® green building program or equivalent green building standards. In addition, GHG-PDF-1 would require reduction of energy usage by 10 percent over baseline conditions.

Based on this analysis, the Draft EIR correctly concluded that the Project would result in less than significant GHG impacts. No evidence, substantial or otherwise, was provided to the contrary by the commenter.

Comment No. 7-105

7) Failure to Evaluate Cumulative Greenhouse Gas Impact Consistent with Evolving Scientific Knowledge and Regulatory Schemes

It is commonly recognized by California air districts that a project's impact on climate change is cumulative in nature.⁷⁰ According to the Technical Advisory prepared by the Office of Planning and Research ("OPR"), "[t]he potential effects of a project may be

³⁸ Refer to CEQA Appendix G.

³⁹ Refer to CEQA Guidelines Sections 15064.4 and 15064.7.

individually limited but cumulatively considerable[]” and that “[l]ead agencies should not dismiss a proposed project’s direct and/or indirect climate change impacts without careful consideration, supported by substantial evidence... [including] analysis should be provided for any project that may significantly contribute to new GHG emissions, either individually or cumulatively, directly or indirectly.”⁷¹ Furthermore, OPR rightfully acknowledge, consistent with state regulatory scheme and CEQA case law, that “thresholds cannot be used to determine automatically whether a given effect will or will not be significant; instead, thresholds of significance can be used only as a measure of whether a certain environmental effect will normally be determined to be significant or normally will be determined to be less than significant by the agency.”⁷² Recognizing this principle, CEQA Guidelines § 15064.7(c) permits the use of thresholds developed by other public agencies.

Similarly, the California Supreme Court has made clear that CEQA demands robust GHG analysis to assess a project’s impact on climate change, and while lead agencies have discretion, that discretion must be exercised “based to the extent possible on scientific and factual data” and “stay[ing] in step with evolving scientific knowledge and state regulatory schemes.” *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (“*Cleveland II*”) (2017) 3 Cal.5th 497, 504, 515, 518 (quoting CEQA Guidelines § 15064(b)); see also 519 (noting to meet the State’s long-term climate goals, “regulatory clarification, together with improved methods of analysis, may well change the manner in which CEQA analysis of long-term [GHG] emission impacts is conducted.”). Hence, a GHG analysis which “understates the severity of a project’s impacts impedes meaningful public discussion and skews the decisionmaker’s perspective concerning the environmental consequences of the project, the necessity for mitigation measures, and the appropriateness of project approval.” *Id.*, on remand (“*Cleveland III*”), 17 Cal.App.5th 413, 444; see also *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564 (quoting *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392).

Here, the SCAQMD’s multi-tiered approach under its *Interim Thresholds*, although not officially adopted, represents the current standard of evolving scientific data and regulatory scheme notwithstanding even more aggressive efforts taken at the State level (i.e., Senate Bill 32, CARB’s 2017 Scoping Plan). Given the City’s Sustainability Climate Action Plan is outdated, and the SCAG RTP/SCS and the CARB 2017 Scoping Plan are inapplicable as CAPs with a quantified threshold, the DEIR cannot ignore the *Interim Thresholds* simply because SCAQMD failed to adopt these measures. To do so would not be in keeping with the evolving scientific knowledge and state regulatory schemes—nor in keeping with the City’s past practices.

Consistent with the edicts of SB 32, other air control districts have adopted more aggressive GHG thresholds for project-level analysis that mirror SCAQMD’s *Interim*

Thresholds, including but not limited to the Sacramento Metropolitan Air Quality Management District (“SMAQMD”), Bay Area Air Quality Management District (“BAAQMD”), and San Luis Obispo Air Pollution Control District (“SLOAPCD”) (as summarized in the table on the following pages). Given the cumulative nature of GHG emissions and consistent with CEQA Guidelines § 15064.7(c), these recommended thresholds complement SCAQMD’s *Interim Thresholds* and further support the conclusion that they constitute the current standard for evaluating a project’s GHG significance.

Current GHG Thresholds from Other Air Districts
*SMAQMD (May 2018) Guide to Air Quality Assessment*⁷³

Land Development and Construction Projects		
	Construction Phase	Operational Phase
Greenhouse Gas Emissions (GHG) Thresholds		
GHG as CO ₂ e	1,100 metric tons/year	1,100 metric tons/year

Stationary Source Only		
	Construction Phase	Operational Phase
Greenhouse Gas Emissions (GHG) Thresholds		
GHG as CO ₂ e	1,100 metric tons/year	10,000 metric tons/year

- 1) Construction phase of all project types – 1,100 MT CO₂e/yr.
- 2) Operational phase of a land development project – 1,100 MTCO₂e/yr.
- 3) Stationary source operational emissions – 10,000 MT CO₂e/yr.

*BAAQMD (May 2017) CEQA Air Quality Guidelines*⁷⁴

GHGs – Projects other than Stationary Sources	Compliance with Qualified GHG Reduction Strategy OR 1,100 MT of CO ₂ e/yr OR 4.6 MT CO ₂ e/SP/yr (residents+employees)
GHGs – Stationary Sources	10,000 MT/yr

While providing 10,000 MTCO₂e/year for stationary-source projects, other projects (e.g., residential, commercial, public land uses):

- 1) **CAP**: Compliance with a qualified GHG Reduction Strategy; or
- 2) **Bright Line**: Annual emissions less than 1,100 MTCO₂e/year; or
- 3) **Efficiency Level**: 4.6 MTCO₂e/SP/year (residents + employees).

SLOAPCD (Mar. 2012) GHG Thresholds and Supporting Evidence⁷⁵

GHG Emissions Threshold Summary	
Residential and Commercial Projects	Compliance with Qualified GHG Reduction Strategy OR Bright-Line Threshold of 1,150 MT of CO ₂ e/yr. OR Efficiency Threshold of 4.9 MT CO ₂ e/SP*/yr.
Industrial (Stationary Sources)	10,000 MT of CO ₂ e/yr.

- 1) **CAP:** Consistency with qualitative reduction strategies (e.g., Climate Action Plans).
- 2) **Bright-Line Threshold:** 1,150 MTCO₂e/year after inclusion of emission-reducing features of a proposed project, those still exceeding the threshold would have to reduce their emissions below that level to be considered less than significant.
- 3) **Efficiency-Based Threshold:** 4.9 MTCO₂e/SP/year dependent on per capita basis for residential projects or the sum of jobs and residents for mixed-use projects.

PCAPCD (Oct. 2016) CEQA Threshold Significance Justification Report⁷⁶

Bright-line Threshold 10,000 MT CO ₂ e/yr			
Efficiency Matrix			
Residential		Non-residential	
Urban	Rural	Urban	Rural
(MT CO ₂ e/capita)		(MT CO ₂ e/1,000sf)	
4.5	5.5	26.5	27.3
De Minimis Level 1,100 MT CO ₂ e/yr			

Although more demanding, the above-listed thresholds adopted by these air districts are analogous with the application of SCAQMD’s Tier 3 screening threshold for commercial and mixed-use/non-industrial developments (1,400 and 3,000 MTCO₂e/year, respectively) and SCAQMD’s Tier 4 efficiency target goals (4.8 and 3.0 MTCO₂e/SP/year for target year 2020 and 2035, respectively).⁷⁷ The overwhelming weight of the actions taken by the other air districts, the regulatory agencies with the most expertise in the area of assessing GHG emission impacts, is the most compelling rationale for why the *Interim Thresholds* apply here as the current standard set of evolving scientific knowledge and regulatory schemes.

⁷⁰ See e.g., SCAQMD (Oct. 2008), *supra* fn. 56, p. 1-4–1-5 (citing the OPR Technical Advisor: “When assessing whether a project’s effects on climate change are ‘cumulatively considerable’ even though its GHG contribution may be individually limited, the lead agency must consider the impact of the project when viewed in connection with the effects of past, current, and probable future projects.”), <http://www.scaqmd.com>.

[aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/ghg-attachmente.pdf](http://aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghg-attachmente.pdf); Bay Area Air Quality Management District (“BAAQMD”) (May 2017) CEQA Air Quality Guidelines, p. 2-1 (“No single project could generate enough GHG emissions to noticeably change the global average temperature [but rather] [t]he combination of GHG emissions from past, present, and future projects contribute substantially to the phenomenon of global climate change and its associated environmental impacts.”), http://www.baaqmd.gov/%7E/media/files/planning-and-research/ceqa/ceqa-guidelines_may2017-pdf.pdf?la=en; San Luis Obispo County Air Pollution Control District (“SLOAPCD”) (Mar. 28, 2012) GHG Threshold and Supporting Evidence, p. 5 (“No single land use project could generate enough GHG emissions to noticeably change the global average temperature. Cumulative GHG emissions, however, contribute to global climate change and its significant adverse environmental impacts. Thus, the primary goal in adopting GHG significance thresholds, analytical methodologies, and mitigation measures is to ensure new land use development provides its fair share of the GHG reductions needed to address cumulative environmental impacts from those emissions.”), <https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/Greenhouse%20Gas%20Thresholds%20and%20Supporting%20Evidence%204-2-2012.pdf>; Sacramento Metropolitan Air Quality Management District (“SMAQMD”) (May 2018) Guide to Air Quality Assessment in Sacramento County, p. 6-1-3, (“(GHG) emissions adversely affect the environment through contributing, on a cumulative basis, to global climate change... *the District recommends that lead agencies address the impacts of climate change on a proposed project and its ability to adapt to these changes in CEQA documents*... [thus urging] evaluating whether the GHG emissions associated with a proposed project will be responsible for making a cumulatively considerable contribution to global climate change.” [emphasis original]), <http://www.airquality.org/LandUseTransportation/Documents/Ch6GHGFinal5-2018.pdf>.

- ⁷¹ OPR (6/19/08) Technical Advisory on CEQA and Climate Change, p. 6, <http://opr.ca.gov/docs/june08-ceqa.pdf>.
- ⁷² OPR (Nov. 2017) Proposed Updates to the CEQA Guidelines, p. 7 (citing CEQA Guidelines §§ 15064 and 15064.7 and *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1108–1109), [http://opr.ca.gov/docs/20171127 Comprehensive CEQA Guidelines Package Nov 2017.pdf](http://opr.ca.gov/docs/20171127%20Comprehensive%20CEQA%20Guidelines%20Package%20Nov%202017.pdf).
- ⁷³ SMAQMD (May 2018), *supra* fn. 70, p. 6-10-12; see also SMAQMD Thresholds of Significance Table, <http://www.airquality.org/LandUseTransportation/Documents/CH2ThresholdsTable5-2015.pdf>.
- ⁷⁴ BAAQMD (May 2017), *supra* fn. 70, p. 2-2–2-4. Like the SCAQMD area, BAAQMD is designated as a nonattainment area for state/national ozone and particulate matter (“PM”) and thresholds would seem particularly apt for the Project. *Compare id.* at p. 2-1 with SCAQMD NAAQS/CAAQS Attainment Status (noting “extreme” and “serious” nonattainment for multiple ozone and PM standards), <http://www.aqmd.gov/docs/default-source/clean-air-plans/air-quality-management-plans/naaqs-caaqs-feb2016.pdf>.
- ⁷⁵ SLOAPCD (Mar. 28, 2012), *supra* fn. 70, p. 25-30, 42.
- ⁷⁶ PCAPCD (Oct. 2016) CEQA thresholds of Significance Justification Report, pp. E-2, 2, 17-22 (“CEQA requires that the lead agency review not only a project’s direct effects on the environment, but also the cumulative impacts of a project and other projects causing related impacts. When the incremental effect of a project is cumulatively considerable, the lead agency must discuss the cumulative impacts in an EIR. [citing CEQA Guidelines § 15064]”), <https://www.placer.ca.gov/DocumentCenter/View/2061/Threshold-Justification-Report-PDF>; see also PCAPCD (11/21/17) CEQA Thresholds And Review Principles, <http://www.placerair.org/landuseandceqa/ceqathresholdsandreviewprinciples>.

Response to Comment No. 7-105

As discussed in Response to Comment No. 7-96, the fact that the SCAQMD Governing Board considered the draft threshold in 2008, nearly a decade ago, and did not adopt it with no further action provides a strong rationale as to why the SCAQMD draft threshold should not be considered in the analysis of GHG emissions for the Project.

CEQA does not require reliance on *draft* regulatory standards as significance thresholds.⁴⁰ Since the SCAQMD interim guidance was never adopted, substantial evidence supports the City's decision concerning the significance threshold for evaluating the Project's GHG emissions, particularly since, among other reasons, CEQA permits the use of qualitative significance thresholds.⁴¹

As discussed in Section IV.C Greenhouse Gas Emissions, analysis of a Project's GHG emissions is inherently cumulative in nature since climate change is a global problem. The GHG analysis prepared for the Project has demonstrated consistency with the State's AB 32 targets and goals. In addition, the Project's consistency with regional measures such as SCAG's 2016–2040 RTP/SCS was also considered in the analysis.

Furthermore, previous comments provided above suggest that the Draft EIR should have been more specific to the Project area and only consider local plans/significance thresholds. Therefore, reliance on other air districts' significance thresholds developed specifically for each individual jurisdiction appears to contradict the analysis methodology recommended by SWAPE in previous comments. The fact that SCAQMD considered draft thresholds over a decade ago and did not adopt them with no further action provides a strong rationale as to why the SCAQMD draft threshold should not be considered in the analysis of GHG emissions for the Project.

Comment No. 7-106

Thus, only through application of SCAQMD's Tier 3 screening thresholds and comparison to SCAQMD's Tier 4 efficiency target goals can the City be consistent with the improved analysis methods that are regularly practiced by other air districts, consistent with City's past practices, and further CEQA's demand for "conservative analysis" to afford "fullest possible protection of the environment."⁷⁸ Absent this, the DEIR's GHG analysis is inconsistent with evolving scientific knowledge or regulatory standards, and its conclusion that the Project has an insignificant GHG impact is not supported by substantial evidence. An updated DEIR must be prepared to include a more robust GHG emissions analysis and mitigation to the extent necessary.

Response to Comment No. 7-106

As discussed above, contrary to this comment, it was determined that given the Project's consistency with state, SCAG, and City of Long Beach GHG emission reduction

⁴⁰ Refer to CEQA Appendix G.

⁴¹ Refer to CEQA Guidelines Sections 15064.4 and 15064.7.

goals and objectives, the Project would not conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of GHGs. In the absence of adopted standards and established significance thresholds, and given this consistency, it was concluded that the Project's impacts are considered less than significant. No additional mitigation measures to reduce GHG emissions are required.

Comment No. 7-107

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

⁷⁷ SCAQMD (12/5/08), *supra* fn. 56; see also SCAQMD (Oct. 2008), *supra* fn. 56; SCAQMD (9/28/10), *supra* fn. 57.

⁷⁸ SCAQMD (June 2014) Warehouse Truck Trip Study Data Results and Usage Presentation: Inland Empire Logistics Council, p. 3, http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/final-ielc_6-19-2014.pdf?sfvrsn=2; see also *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390 ("The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.") (internal citations omitted).

Response to Comment No. 7-107

This comment, which concludes Exhibit A, is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 7-108

Attachment: Exhibit A: Updated CalEEMod Output Files (10/3/19) [124 pages]

Response to Comment No. 7-108

This attachment is the Updated CalEEMod Output Files for Exhibit A. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 7-109

Attachment: Exhibit B: AERSCREEN Output Files (10/4/19) [37 pages]

Response to Comment No. 7-109

This attachment is the AERSCREEN Output Files for Exhibit B. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.

Comment No. 7-110

Attachment: Curriculum Vitae [18 pages]

Response to Comment No. 7-110

This attachment is the curriculum vitae for Exhibit A's preparers. This comment is noted for the record and will be forwarded to the decision makers for their review and consideration.